THIRD
ANNUAL REPORT
OF THE
OFFICE OF THE PUBLIC COMPLAINTS COMMISSIONER
AND THE
POLICE COMPLAINTS BOARD

December 21, 1983, to December 20, 1984

June, 1985

Attorney General for Ontario
Ministry of the Attorney General
18 King Street East
Toronto, Ontario

Dear Mr. Attorney:

Pursuant to Section 3(3) and Section 4(10) of the Metropolitan Police Force Complaints Project Act, 1981, I am pleased to enclose herein the Third Annual Report of the Office of the Public Complaints Commissioner and the Police Complaints Board.

Next year's Annual Report will be made pursuant to the Metropolitan Toronto Police Force Complaints Act, 1984, a copy of which is appended to this Report.

Yours very truly,

SIDNEY B. LINDEN, Q.C.
Public Complaints Commissioner

SBL/mm

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PART I - NEW LEGISLATION - ESTABLISHMENT OF THE OFFICE OF THE PUBLIC COMPLAINTS COMMISSIONER AS A PERMANENT AGENCY

From December 21, 1981 to December 20, 1984, the Office of the Public Complaints Commissioner operated as a pilot project pursuant to the Metropolitan Police Force Complaints Project Act, 1981. On June 22, 1984, the Attorney General of Ontario made the following remarks upon tabling the second annual report of the Public Complaints Commissioner.

> "...In my view, it is clear that this important project has been an outstanding success. It has brought about a great many improvements in the handling of public complaints of police misconduct.
>
> Members who were present in this House throughout the 1970s will recall the almost constant controversy which surrounded this issue. Royal Commissions and special investigations by such individuals as Arthur Maloney, Mr. Justice Morand, Walter Pitman and Cardinal Carter among others, highlighted the controversial nature of the subject.
>
> In contrast, the period of time since 1981 has been marked by an unprecedented level of public acceptance of the complaints process. Although improvements remain to be made, the dramatic change since 1981 is a powerful testament to the success of the project.
>
> The success of the project has led to it being studied by a number of jurisdictions throughout the world, including the United States, Europe, Hong Kong, Bermuda, Jamaica, the Netherlands, Nigeria and Australia.
>
> Lord Scarman, in his report on the Brixton disorders, stated, "The Toronto proposal appears to me to merit serious consideration as a possible model for reform of our procedure," referring, of course, to Britain.

> Legislation modelled in part on the project has been implemented in jurisdictions as close as Manitoba and as far away as Western Australia."

During 1984, the Public Complaints Commissioner consulted with a number of groups in the community in regard to the operation of the complaints system. As well, there were consultations with the Chief of Police, the President of the Metropolitan Toronto Police Association, the Municipality of Metropolitan Toronto, the Solicitor General and the Attorney General. During that process of consultation, new legislation was drafted, for the Office of the Public Complaints Commissioner.

On November 13, 1984 Bill 140, An Act to Revise the Metropolitan Police Complaints Project Act, 1981 was tabled in the legislature. The Bill received Royal Assent on December 14, 1984 and became law as of December 21, 1984. The Act -- the short title is the Metropolitan Toronto Police Force Complaints Act, 1984 -- established the Office of the Public Complaints Commissioner as a permanent agency.

For the most part, complaints by the public against members of the Metropolitan Toronto Police Force will proceed under the new Act as they did in the pilot project phase. However, there are some differences. This Part will outline the process, including the changes brought about by the new legislation.

A. FILING A COMPLAINT

A complaint against a Metropolitan Toronto police officer may be filed at any police station, at the Public Complaints Investigation Bureau of the police force (hereafter referred to as the Bureau) or at the Office of the Public Complaints Commissioner (hereafter referred to as the P.C.C.).

Statistics based on closed cases during the three year pilot project show that there has been a significant increase in the percentage of complainants who file their complaint at the P.C.C. - from 20% in the first year to 31% in the third year. This increase may be attributed to greater public awareness of the P.C.C., its convenient location at Bloor Street and Avenue Road and possibly to the fact that the office is staffed by civilians. Extended office hours can be arranged as needed, and for those who have difficulty with the English language, translation services are available. These factors may also contribute to the increase.

A 24 hour answering service for the P.C.C. office is in use, and the Director of Investigations is notified of any urgent calls that come in on evenings and weekends. P.C.C. investigators regularly travel to any complainants or police officers who find it difficult to come to the office.

There are four changes resulting from the new legislation that may affect the procedure used when a complaint is filed. The first is a provision for inquiries as well as complaints. The second is a provision to cover situations in which a person complains who is not directly affected by a particular incident. The third is a provision for dealing with complaints that are frivolous, vexatious, or outside the jurisdiction of the Act. The fourth imposes an obligation to conduct preliminary investigation on the officer in charge of any police station at which a complaint is filed.

1. Inquiries

The inquiry system resulted from the fact that, on occasion, a question or concern is raised by a member of the public which, even if proved, would not amount to misconduct. That is, the allegation even if proved, would not amount to an offence as defined by the Code of Offences set out in the regulations under the Police Act.

An example of a matter that might be treated as an inquiry is a question as to whether a police officer who stops a driver for a traffic infraction has the right to ask the driver to produce a licence and ownership papers. As long as there is no question of lack of courtesy, this matter might be dealt with simply by reference to the Highway Traffic Act.

Complaints that are filed may be treated as inquiries only with the consent of the Public Complaints Commissioner. The officer in charge of the Bureau must still respond in writing to the person who made the inquiry and a copy of the response must be sent to the Commissioner.

During the course of investigation into an inquiry, the officer in charge of the Bureau may discover that part of the subject matter may in fact raise questions of misconduct. In this situation, it is appropriate for the officer in charge of the Bureau to reclassify any allegation within the inquiry as a complaint, notifying the complainant, the subject officer and the Commissioner immediately.

2. Complaints by Persons not Directly Affected

Another change brought about by the new legislation arises when the person filing a complaint is not directly affected by the incident. An example of a person considered not directly affected is a person who reads about an incident in a newspaper, or is told about it after it occurs. On the other hand, a person who observes an incident is considered to be a person directly affected.

In the previous legislation, a person who had filed a complaint upon reading about an incident in a newspaper was entitled to the same investigative reports as a person directly affected. The investigative reports often contain information that is personal and there was concern that this type of information was being released to third parties who had no relationship with the incident or the persons involved.

In order to balance the public interest in receiving and investigating third party complaints with the privacy rights of witnesses and others involved in the incident, the following system was introduced by the new Act:

If a person not directly affected files a complaint, the Commissioner is required to look into the matter and ascertain who was directly affected by the incident. The Commissioner must then notify the person directly affected that a complaint has been made and tell that person that they are entitled to file a complaint. If directly affected persons cannot be found or do not choose to file a complaint, the Chief of Police is informed of the issue that has been raised in the complaint. The Chief may pursue it and take appropriate disciplinary action. The Chief of Police must notify the Commissioner of any action taken, and the Commissioner in turn must notify the third party complainant.

3. Frivolous, Vexatious or Non-Jurisdictional Complaints

A provision in the new Act allows the Chief of Police, subject to review by the P.C.C., to decide that a complaint or a part of the complaint should not be dealt with under the Act. If the Chief of Police believes that the complaint is frivolous, vexatious or made in bad faith, that the complaint is not within the jurisdiction of the Act, or that the complaint is one that could or should be more appropriately dealt with under other legislation, he is obliged to notify the Commissioner, the complainant and the subject officer. This decision does not prevent the Chief from taking any disciplinary action that he might otherwise take under the Police Act and Regulations.

When the Chief of Police makes a decision not to deal with the complaint, the complainant may request a review of this decision by the Public Complaints Commissioner within 30 days of receiving notification from the Chief of Police. This time limit may be extended by the Commissioner where there are reasonable grounds for granting an extension.

When this decision by the Chief of Police is referred to the Commissioner for review, any necessary investigation is done by P.C.C. investigators and the Commissioner must make a decision as to whether to write a report or refer the matter to a public hearing.

4. Immediate Initial Investigation When Complaint is Filed

When a complaint is filed, it is important that any available evidence be collected and preserved immediately, and that statements be recorded before memory of the incident fades. The Office of the Public Complaints Commissioner is well equipped to handle initial investigative procedures such as the taking of a statement, the preservation of evidence, and the photographing of injuries. The Public Complaints Investigation Bureau of the Police Force also has facilities to take statements and photographs and preserve evidence.

The change in the new Act is directed towards situations in which people file complaints at a local police station. The new Act states that when a complaint is recorded at a police station, the officer in charge of the station must take all reasonable steps to ensure that evidence is gathered that might be lost if not secured immediately, and undertake other preliminary investigation if appropriate. A report concerning the preliminary investigation must be forwarded to the Bureau.

B. INVESTIGATION

The investigation of a complaint has not been changed by the new legislation. In general, the initial investigation is conducted by the Public Complaints Investigation Bureau. The Bureau is a separate unit of the police force that deals exclusively with public complaints. Bureau investigators are all very experienced and have the rank of Sergeant or Staff Sergeant.

Bureau investigations are monitored by the Commissioner, who along with the complainant and subject officer, receives written reports every 30 days until the investigation is completed. These reports outline each step that is taken in the investigation and summarize all of the information that is obtained.

Investigation by the Bureau must be done according to rules set out in a regulation. The regulation requires that:

> "...An investigation ...shall be pursued quickly and diligently and the investigator shall endeavour to obtain all information that may have a bearing on the complaint.
>
> ...All information and evidence obtained in the investigation shall be recorded and preserved.
>
> ...The investigator shall endeavour to interview the person making the complaint and the police officer concerned and obtain written statements from them.
>
> ...The investigator shall endeavour to interview the witnesses named by the person making the complaint and the police officer concerned and witnesses located as a result of the investigation and to obtain written statements from such witnesses.
>
> ...The investigator shall endeavour to obtain photographs of all personal injuries or damage to property alleged and any other information and evidence that is relevant to the investigation and could only be preserved by way of photographs.
>
> ...Where appropriate, the investigator shall attend at the scene of the alleged misconduct and obtain any relevant evidence.
>
> ...The investigator shall endeavour to obtain all hospital records and medical reports related to the complaint.

> ...The investigator shall make notes during or as soon as possible after completion of each investigative step and the notes shall be preserved.
>
> ...Any information, notes, or evidence, except physical evidence, that is required to be preserved shall be preserved for a period of two years after the complaint is finally disposed of."

The P.C.C.'s civilian investigators are able to monitor the progress of the Bureau's investigation through analyzing the complaint form, and the interim and final reports. If it appears that there has been an oversight, further investigation can be requested, or the P.C.C. can also do its own investigation.

There is provision in the new Act, as there was in the previous legislation, for P.C.C. investigators to investigate a complaint from the outset in certain circumstances. Investigation may be undertaken upon the request of the Chief of Police or where the Commissioner has reasonable grounds to believe that there has been undue delay or other exceptional circumstances in the conduct of the Bureau's investigation. Alternatively, the Commissioner can undertake investigation 30 days after the complaint has been filed, at his discretion.

The Commissioner has wide investigatory powers. After giving notice to the Chief of Police, the Commissioner's investigators may enter any police station and may remove books, papers and things related to the investigation for analysis. If necessary, the Commissioner may obtain a search warrant to investigate any other building, dwelling, receptacle or place. The Commissioner also has the powers of a commission under Part II of the Public Inquiries Act, which allows him to subpoena persons to answer questions under oath.

C. INFORMAL RESOLUTION OF COMPLAINTS

Often a complaint can be resolved to everyone's satisfaction through an informal settlement. This can happen, for example, where the complaint arose out of a misunderstanding, by the complainant or the officer, that can be explained, or where a police officer is willing to admit to minor misconduct such as discourtesy and to apologize to the complainant. From December 21, 1983 to December 20, 1984 22.3% of complaints were resolved informally by the Bureau.

The informal resolution is an appropriate way to resolve a complaint, as long as the complaint does not involve serious misconduct, and as long as the complainant has been adequately informed of his or her right to have the matter investigated further and formally resolved, and is truly content not to do so.

The officer in charge of the Bureau has a duty to consider whether a complaint can be resolved informally and may attempt to do so, if both the complainant and the subject officer agree. When a complaint is resolved informally, a written record of the resolution must be drafted and signed by both complainant and subject officer. A copy of the Record of Informal Resolution is forwarded to the Commissioner, the complainant and the subject officer.

The new legislation allows the Commissioner to reopen an informal resolution if he decides that the resolution was obtained as a result of a misunderstanding, a threat or other improper pressure. In this event the complaint investigation is completed and sent to the Chief of Police or his designate for a decision.

D. WITHDRAWAL OF COMPLAINTS

Between December 21, 1983 and December 20, 1984 12.4% of complaints were withdrawn by the complainant. The new legislation allows the complainant to withdraw a complaint at any time by giving notice on a special form to the officer in charge of the Bureau, who must forward a copy of the notice to the Commissioner and the subject officer. The fact that a complaint is withdrawn does not prevent the Chief of Police from continuing the investigation and taking disciplinary action, if appropriate.

If the Commissioner is of the opinion that the complainant withdrew the complaint as a result of a misunderstanding, a threat or other improper pressure, the Commissioner may notify the person in charge the Bureau that the complaint is to be continued under the Act.

E. DECISION OF THE CHIEF OF POLICE

At the end of the investigation, a Deputy Chief of Police, who is authorized by the Chief of Police, makes a final decision as to what, if any, action will be taken by the police force in response to the complaint. Action by the police force can include summary discipline, Police Act charges, criminal charges or a hearing by a civilian disciplinary tribunal (formerly called the Police Complaints Board; now called a Board of Inquiry). The Deputy Chief must state his or her decision in writing, and give reasons for it. A copy of this decision is sent to the complainant, the subject officer and the P.C.C.

F. REVIEW BY THE P.C.C.

If the complainant is not satisfied with the decision of the Deputy Chief of Police, he or she may request a review by the P.C.C. The complainant is informed of this right in the letter from the Deputy Chief, and in the explanatory material given to every complainant when the complaint is filed. The new legislation allows a complainant 30 days to request a review. This time limit can be extended by the P.C.C. if there are reasonable grounds for granting an extension.

As the P.C.C. becomes better known in the community, requests for review are increasing. In 1982, (December 21, 1981 to December 20, 1982) there were 45 requests. In 1983, this number increased to 75. In 1984, there were 98 requests for review. While a request for review indicates dissatisfaction with the decision of the Chief of Police, this increase can also be interpreted positively as indicating an increased awareness of the new system and a willingness to use it.

A review involves an analysis of the initial investigation, with further investigation, where necessary. In an appropriate case the P.C.C. may attempt to settle a complaint informally. In cases where settlement is inappropriate, the Public Complaints Commissioner must decide whether it is in the public interest to hold a civilian Board of Inquiry hearing into the matter. If such is not the case, a review report is written.

Situations in which review reports are written cannot be described exhaustively, due to many considerations which arise in determining "the public interest". Each case is decided on its own facts. However, some examples can be provided. Review reports have been written in the following situations:

(a) Where the officer's conduct was based on an understandable misinterpretation of the law;

(b) Where the officer believed that he or she was acting according to policy or procedure, but in fact did not do so because of a misunderstanding of police policy or procedure;

(c) Where the officer was acting reasonably and legally;

(d) Where there is insufficient evidence to go to a Board hearing.

Examples of the situations listed above, based on actual cases, were given in the Second Annual Report of the Office of the Public Complaints Commissioner.

Review reports contain an explanation of the nature of the allegation, the witnesses contacted, the evidence considered and any other investigative steps that were taken. In all cases where a witness' version of events contradicts that of the complainant, the complainant is informed about the contradiction and asked to comment. If the Commissioner decides that no action is warranted, the decision is explained.

The following is an example of a review report released in this reporting year:

COMPLAINANT: Mr. B

On October 30, 1983, Mr. B filed a complaint against P.C. Z of ___ Division. Mr. B's complaint arose out of an incident which took place on October 30, 1983, during which he was issued a ticket for standing in a prohibited area. The complaint was investigated by Staff

Sergeant C of the Public Complaints Investigation Bureau. On February 29, 1984, Deputy Chief Noble, in his capacity as Complaint Review Officer, wrote to the complainant and advised him that he had counselled the officer with respect to his behaviour in issuing the ticket, as he was not satisfied that the officer had issued the ticket in good faith.

Mr. B attended at my office on March 15, 1984, to request a review of this decision. He was not satisfied with the result obtained because he had wanted a written apology from P.C. Z. I notified the Chief of Police of the complainant's request for review and asked for a photocopy of the Bureau's investigative file. The Bureau file was duly forwarded to my office on March 23, 1984 and I have reviewed it.

Mr. B's complaint, as set out on the complaint form, is as follows:

> I was stopped on Lansdowne Avenue near Queen Street West warming up my car. Two policemen stopped across the road from me and the driver said, "Are you warming up your car?" I said, "If I don't warm it up it will cost me money." The policeman replied, "If you don't move it, it's going to cost you more." I moved my car east on Queen towards Roncesvalles and when I was close to Triller I saw his flashing light on. Then he stopped and asked for my ID which consists of driver's licence, ownership, and insurance. I gave it to him and he walked back to his car. They were in the car laughing and came back 15 1/2 minutes later, and handed them back to me and said "Thank you." I said, "Number one, may I ask one question?" The other officer said, (that is Officer Z) "He's number one, I'm number two." He said, "What is it, a joke." I said, "No, it is not a joke, I would like to know why I have been detained for so long." He said, (Officer Z), "What are you trying to be, a smart ass?" I said, "No, I would just like to get some answers." He then said, "You can go to the station if you don't like it here." That was it and I came here.

The Bureau investigation into this complaint was completed. The Bureau investigator interviewed Mr. B and attended with the complainant to the place where Mr. B's vehicle allegedly was stopped, opposite 14 Lansdowne Avenue. The investigator obtained written statements from P.C. Z and his partner, and interviewed these officers as well. He also interviewed and obtained a written statement from the Staff Sergeant at ___ Division who received the complaint from Mr. B. He arranged to have the Identification Bureau take photographs of the location and he also obtained the tapes of radio communications. Finally, he obtained copies of the training precis used by the Police Department in the education of officers; the precis referred to were those dealing with parking tickets and courtesy toward members of the public. He also drew maps of the scene and photocopied an extract from Perly's Map Guide, showing the streets where the complainant was initially parked and where he was later stopped by the police.

My review of the contents of the Bureau investigative file indicates that no further investigation is required with respect to this complaint. During the course of the Bureau investigation, Mr. B was supplied with regular reports which apprised him of evidence both for and against his complaint.

During an interview with the Bureau investigator, Mr. B added that he did move his car, travelled south on Lansdowne Avenue and then west on Queen Street, until he was stopped on Queen Street West and Trilier Avenue, where he was given the ticket. According to the complainant, he was not parked in a prohibited area when the police officer told him to move.

Mr. B's first allegation is that P.C. Z told him to move his car or it would cost him money. He stated that he was not illegally parked.

P.C. Z has admitted that he did make this statement to Mr. B. According to P.C. Z's written statement to the Bureau investigator, he and his partner observed the complainant's vehicle illegally parked at the west curb of Lansdowne Avenue in a bus zone. P.C. Z stated that he asked Mr. B if he was going to move his car. Mr. B replied that he was warming up the car to save money, at which P.C. Z told him that if he did not move the car, it would cost him more. P.C. Z's partner confirmed that P.C. Z made the above comment and that the complainant was illegally stopped.

In dealing with this allegation, Deputy Chief Noble stated that there was no independent evidence to prove or disprove the allegation. As far as the comment is concerned, there is P.C. Z's admission, supported by his partner's evidence, that the comment about money was made. As for the complainant's insistence that he was not stopped in a prohibited area in that he was stopped in an area during a time when parking was permitted, there is no independent evidence to show whether this was so. The officers have indicated that he was stopped in a prohibited area (bus zone), however, the ticket does not mention the exact location.

In this case, it was important to know the exact location, because that would determine whether the offence had been committed. Mr. B indicated to the Bureau investigator the place where his car had been stopped. There is a sign which states that no parking is permitted in that area from 4:00 p.m. until 6:00 p.m. The complainant was stopped there at 10:30 p.m., which would not be an offence. According to the police officers, he was stopped in a T.T.C. bus zone, where there is a sign prohibiting standing at any time.

Mr. B's second allegation is that he was given the ticket only after he questioned the reason why he had been detained for fifteen minutes.

P.C. Z stated that Mr. B did not move his car immediately upon being told to do so, but appeared to be talking to a woman standing outside of the car, leaning in the passenger's window. After about thirty seconds, the driver slowly moved his car and turned onto Queen Street. At this time, P.C. Z's partner pressed the talk button on the radio, to get a check on the licence number. They did not get response and so pulled the vehicle over. They stopped the car at Queen Street and Triller Avenue, and P.C. Z asked the driver for his licence and insurance, and returned to the cruiser to get a radio check. The dispatcher made a mistake and they had to wait for the correct information. After they returned the identification to Mr. B and began to walk back to their car, Mr. B yelled "I want an explanation, number one". P.C. Z asked what he meant by "number one" and the driver became very angry. He yelled that he had been stopped for an hour and a half, and wanted to know why. P.C. Z told him that he was going to get a parking ticket and went back to the car to get the ticket, which he then gave to Mr. B.

P.C. Z's partner confirmed the above account. The S/Sgt. who received the complaint from Mr. B stated that the complainant was annoyed and took exception to the fact that he had received the ticket several blocks away from the location shown on the tag. He was of the opinion that he was given the ticket because he questioned the reason for the delay.

In dealing with this allegation, Deputy Chief Noble stated that the Bureau investigator had obtained the tapes of the radio check requested by P.C. Z. The tapes confirmed that the location at which P.C. Z issued the ticket to the complainant was at Queen Street and Triller Avenue, and that it took nine minutes to complete the check. The remainder of the time was possibly taken up with issuing the parking ticket.

Deputy Chief Noble found that he was not satisfied that P.C. Z had issued the ticket in good faith, since it was five blocks away from and fifteen minutes after the alleged infraction.

The complainant's third allegation is that P.C. Z referred to him as a "smart ass". P.C. Z denied that he made this remark to Mr. B, and is supported by his partner in this regard.

In dealing with this allegation, Deputy Chief Noble stated that there was no independent evidence to confirm or refute the allegation. I agree with this disposition and find myself likewise in no position to reach a conclusion with respect to this particular allegation.

The fourth allegation is that Mr. B was issued a parking ticket which incorrectly identified the location of the offence. P.C. Z has explained the reason why the ticket did not show the exact location of the infraction.

He stated that the complainant's vehicle was standing in a "No Standing" zone on Landsowne Avenue and not on Queen Street West, as indicated on the ticket.

> In dealing with this allegation, Deputy Chief Noble wrote that the officer did not know the street number on Lansdowne Avenue where the complainant's car had been standing, and so he entered the location as "near 1468 Queen Street West".
>
> Deputy Chief Noble concluded that he was not satisfied that the officer had issued the parking ticket in good faith and he counselled P.C. Z with respect to his conduct. Mr. B indicated to my office that he was not satisfied with this disposition, as he believed that the officer should have apologized for his behaviour. I would, however, point out that it is a serious matter for an officer to be counselled about his behaviour and that the fact that he was counselled appears on his personnel record. The personnel record is always studied when an officer is being considered for a promotion.
>
> In light of the officer having been disciplined in the manner described above, it is my opinion that it would not be in the public interest to order a Police Complaints Board hearing in this matter.

On occasion, the Commissioner recommends a change in police policy or procedures in a review report. The recommendations made in review reports can have a preventative function; for example, when a complainant's difficulty is with police policy rather than police misconduct, or when the officer displays only minor misconduct or simply questionable conduct. When the problem might be prevented in future by a change in or clarification of policy, this can be recommended in a review report. If there is very minor misconduct or simply questionable conduct, a report may recommend suitable educative measures. Training or retraining in the law relevant to a particular area of police work, in interpersonal communication, in crowd control or in dealing with the stress of the job, may prevent the problem from arising in future.

One example of a review report in which a recommendation was made concerned a man who sent his two sons to an auto repair shop with a dune buggy, having removed the seats to prevent paint damage. His sons were stopped by an officer, who checked the vehicle and found that the windshield and horn were inoperable. An officer removed the licence plates and confiscated the ownership papers from the vehicle, and the complainant's sons were given an hour in which to remove the vehicle or it would be ticketed.

On the initial investigation of the complaint, it was discovered that a police procedure dealing with the seizure of licence plates and pursuant to the Highway Traffic Act authorized officers to include the ownership permits with the licence plates, where the permit is volunteered. The investigating police officer apologized for the seizure of the ownership permit and pointed to the written policy as the source of the mistaken belief by the officer that he had authority to seize the ownership permit.

The complainant was not satisfied, and requested a review by the P.C.C. On review, an examination of the Highway Traffic Act disclosed that there was no authority in the law for the seizure of a vehicle ownership permit, whether voluntary or otherwise. Accordingly, the Commissioner recommended that a written apology be made to the complainant. The Commissioner also formally recommended that Metropolitan Toronto Police officers should be clearly instructed that vehicle ownership permits are not to be seized and that the Highway Traffic Act does not provide for any exception to this rule; even when the permit is volunteered.

The Metropolitan Toronto Police Force accepted the recommendation. The Deputy Chief, in a letter to the complainant, made the following statements:

> "On November 30, 1982, a Routine Order was published advising all our personnel that the owner's permit is not to be taken by police officers in these circumstances. I am having the Routine Order published again.
>
> I have also directed a memo to Staff Superintendent John Ward, of our Operational Planning Unit, to revise our Administrative Procedure to include that the Owner's Permit remains with the registered owner and is not subject to seizure.
>
> On behalf of the Metropolitan Toronto Police Force, I apologize for any inconvenience caused to you."

G. BOARD HEARINGS

After reviewing a case on the request of a complainant, the Commissioner may call a public hearing before a Board of Inquiry if he considers it to be in the public interest to do so. These discipline hearings are held before civilians, who sit as tribunals of one or three persons, depending on the seriousness of the case.

Under the former legislation, the entire body of civilians was called the Police Complaints Board. Under the new legislation that body is simply referred to as a panel, and the one or three person tribunals that hear individual cases are called Boards of Inquiry.

The panel is appointed by Cabinet, and its proportional representation remains the same under the new legislation. One-third of the members of the panel are to be lawyers jointly recommended by the Attorney General and the Solicitor General. One-third are to be recommended by the council of the Municipality of Metropolitan Toronto. One-third are to be persons other than police officers, jointly recommended by the Metropolitan Board of Commissioners of Police and the Metropolitan Toronto Police Association.

As under previous legislation, Board of Inquiry hearings are open to the public and are similar to other administrative or quasi-judicial proceedings. The Statutory Powers Procedure Act and the rules of natural justice apply.

Some changes that have been brought about by the new legislation affect the conduct of hearings before Boards of Inquiry. The first is in regard to the prosecution of cases. In the previous legislation, there was no provision for a prosecuting counsel at Board hearings. Rather, a counsel for the Board was charged with the task of ensuring that all relevant evidence came before the Board, whether or not the evidence tended to support the complaint.

The new legislation requires that when a hearing is called, the Ministry of the Attorney General will provide counsel to, in effect, prosecute the case. As with the previous legislation, it is anticipated that the respondent officer will be defended by counsel, although this is not a requirement. The complainant may also have counsel although, once again, this is not a requirement under the legislation.

The new legislation also provides for minor changes to the penalties that may be imposed by the Board where an officer is found guilty of misconduct. Those penalties are now the same as the disciplinary penalties available under the Police Act. The Board may dismiss an officer from the force, direct that the officer resign or be dismissed within seven days, reduce the officer in rank, impose a forfeiture of up to 20 days off, impose a forfeiture of up to five days' pay or reprimand the officer.

A report on hearings and decisions completed in 1984 may be found in Part IV.

H. REPORTS AND RECOMMENDATIONS BY THE PUBLIC COMPLAINTS COMMISSIONER

In monitoring and reviewing an average of 820 complaints a year, the Commissioner is in a unique position to offer constructive recommendations directed towards the prevention of problems. The new legislation recognizes this preventative function and provides for two types of formal reports by the Commissioner.

The first is a report arising from a review. After a review, if the Commissioner is of the opinion that a police practice or procedure should be altered, he is required to report this opinion and recommendations to the Metropolitan Board of Commissioners of Police, the Chief of Police and the Metropolitan Toronto Police Association.

The second type of report is not confined to review situations. When, as a result of any matter dealt with under the Act, the Commissioner is of the opinion that a practice or procedure or law affecting the resolution or prevention of public complaints should be altered or implemented, he is required to report this opinion and recommendations to the Metropolitan Board of Commissioners of Police, the Chief of Police and the Metropolitan

Toronto Police Association.

This change in the new Act reflects a procedure undertaken by the Commissioner during the pilot phase of the Office. An example of such a general report with recommendations is included in Part II.

Within 90 days of receiving a report from the Commissioner in either of these situations, the Metropolitan Board of Commissioners of Police is required to forward the report along with its comments and any comments submitted by the Chief of Police or the Metropolitan Toronto Police Association to the Attorney General, the Solicitor General and the Commissioner.

PART II - OTHER SIGNIFICANT ACTIVITIES

A. HOLD-UP SQUAD REPORT - RESPONSE

In the 1983 Annual Report of the Office of the Public Complaints Commissioner, mention was made of a report into allegations against the Hold-Up Squad of the Metropolitan Toronto Police Force. The 150 page report was released in 1984.

As part of the Hold-Up Squad Report, the Public Complaints Commissioner made 19 recommendations for specific reforms in police practices and procedures that would act both as preventative measures against the occurrence of misconduct by police officers, and as a safeguard against unfounded allegations of misconduct.

In August, 1984, the Metropolitan Police Force issued a written response to the Hold-Up Squad Report. In the 21 page response, the police force signified agreement or partial agreement with all of the 19 Hold-Up Squad recommendations.

One of the most important recommendations in the Hold-Up Squad report was that the Metropolitan Toronto Police should experiment with the use of videotaping in interrogations of suspects at police stations. A 70 page section of the Hold-Up Squad report was devoted to an analysis of legal implications of videotaping and a description of various systems implemented in other jurisdictions.

Upon consideration of this recommendation, the police established a Task Force to plan an experimental two year video project, with a view to commencing the project in January, 1985. The original plan proposed by the Task

Force was to videotape, in somewhat limited circumstances, when a suspect wished to confess. After consultation with the Law Reform Commission of Canada, the scope of the project was broadened somewhat. The new pilot project, which has been implemented in Scarborough, is confined to suspects charged with serious offences such as murder, manslaughter, robbery, assault or sexual offences. Not all of the interrogation process is recorded, but if the prisoner wishes to make a statement, the police ask if he or she wishes to have the statement videotaped. Those who agree to a videotaping will be taken to the video studio.

Videotaping in the studio is conducted by civilian technicians. Included on the tape is a large clock with a second hand to eliminate the possibility of anyone editing or tampering with the tape after a statement is made.

Two copies of the videotape and audio recording are made during questioning and kept until the case is fully dealt with by the courts.

When a statement is to be recorded the investigators, who also will be in view of the video camera, will commence the interview by:

- stating the date, time and location
- identifying the persons present in the studio
- confirming the accused's consent to be videotaped
- repeating to the accused his/her right to counsel and the fact that they have been charged with a specific offence and need not say anything unless they wish to do so
- recounting and confirming, with the accused, all the events which have transpired since their arrest, including any statements that they might have made prior to videotaping.

In addition to the videotaping of statements, 41 Division is experimenting with videotaping the arrival and departure of suspects. Prisoners are also videotaped in the booking room and cell area. During the booking, a Staff Sergeant asks the prisoner if he or she has any complaints about treatment by police.

B. REGENT PARK INITIATIVE

Regent Park is a Toronto neighbourhood of approximately 10,000 people. It is characterized by relatively high-density housing, the major part of which is government subsidized. In fact, Regent Park is the oldest and largest public housing development in Canada. Over two-thirds of the residents receive some form of public assistance and many social service agencies are involved in the area. The community has a large proportion of children, teenagers, and young adults. There is significant unemployment among Regent Park youth.

In the autumn of 1983, the Office of the Public Complaints Commissioner was made aware of difficulties that were being experienced in Regent Park between some parts of the community and some members of the police force serving the area.

Difficulties in police-community relations in Regent Park is not a new issue. In 1976, the Liaison Group on Law Enforcement and Policing (a Committee formed through the Metro Toronto Social Planning Council) proposed a project that might deal with this issue in Regent Park. "Project 51" was an effort to establish dialogue between police and the Regent Park community. The Project represented a goodwill effort on the part of police and community agencies; however, it failed, due partly to lack of community involvement.

More recently, complaints from Regent Park residents were aired publicly in October, 1982, when approximately 150 people attended a meeting at a local public library. At that meeting, the Regent Park Committee Against Police Harassment, (a group of Regent Park residents and community workers) was formed. The Committee was to address police-community problems and to report to the Regent Park Residents' Association. The Residents' Association has been in existence in one form or another since 1969, for the purpose of dealing with problems in the community and providing a concerted, organized voice and services for residents of Regent Park.

Over the next five months, the Regent Park Committee Against Police Harassment continued to receive complaints of police misconduct from Regent Park residents, and attempted to arrive at some solution for these problems.

In March, 1983, a Regent Park resident died while in police custody. In May, 1983, a coroner's inquest jury concluded that the deceased died as a result of ingesting a lethal combination of drugs. Notwithstanding the jury's decision, this death caused considerable upset in the community and resulted in a number of outside interest groups approaching Regent Park residents and discussing violence as a solution to problems with police.

In an attempt to arrange a community discussion of the death in police custody and of other perceived problems with police, the Regent Park Committee Against Police Harassment distributed a number of posters throughout the community to advertise a meeting on the issue. The posters contained a somewhat startling illustration depicting a black youth being grabbed by a police officer and bitten by a police dog in front of a burning building. Understandably, officers at the local police division (51 Division, physically located within Regent Park) were outraged at what they considered to be highly inflammatory, prejudicial and inappropriate tactics. Many of these officers tended to confuse the Regent Park Committee Against Police Harassment with outside interest groups who were sending representatives into the community at the time, and were therefore openly stating that members of the Committee were simply a group of "outside agitators" representing no one.

By October, 1983, the two aldermen for the area had arranged several meetings with the Unit Commander at 51 Division. The aldermen attempted to point out that the Regent Park Committee Against Police Harassment, despite a certain naivety of approach as evidenced by the posters that were circulated, was making a bona fide attempt to begin a process of constructively dealing with perceived police-community problems. The aldermen also stressed the possibility that many of the difficulties being experienced between the police and community were a function of inaccurate perceptions held by both parties. These perceptions needed to be addressed and discussed between the police and the community before attitudes could be expected to change.

The police viewed the problem as a matter of individual complaints, which would only warrant action if facts about such complaints could be verified. They were not disposed to discuss other than verifiable facts, nor were they inclined to deal with members of the community, except on an individual basis as complainants about particular incidents. They also reiterated the view that the Regent Park Committee Against Police Harassment was not representative of the Regent Park community.

At this point, the Regent Park Committee Against Police Harassment publicly expressed the view that it was unproductive to have any discussion with the police. Matters were thus at a stalemate.

In October of 1983, many of the individuals and social service agencies involved in the area were concerned that, because of this stalemate, police-community relations might further deteriorate. Accordingly, after discussing the situation with the local aldermen, the Race Relations Division of the Human Rights Commission, and the Multicultural and Race Relations Department of the Municipality of Metropolitan Toronto, the Public Complaints Commissioner decided to meet with members of the Regent Park community. At a meeting with the Regent Park Committee Against Police Harassment and at a public meeting on October 22nd, with Regent Park residents, the Commissioner outlined the details of the complaint system.

Shortly after the public meeting on October 22nd, the Regent Park Committee Against Police Harassment indicated that it would encourage Regent Park residents who had complaints to file them with the Commissioner. However, the Committee indicated that people who had complaints were not willing to talk to the police, due to their fear that they would be harassed or put under pressure to withdraw the complaint. The Commissioner explained that the police officers who investigate public complaints are members of a special unit (the Public Complaints Investigation Bureau) and not attached to any particular Division. However, this explanation did not alleviate the complainants' initial fears.

Due to the sensitive nature of the community at that time, investigators from the Public Complaints Commissioner's office did not insist on the complainants attending at the P.C.C. office. Instead, they attended at the office of the Regent Park Residents' Association, and took written complaints from people who had been contacted by the Committee Against Police Harassment.

Since P.C.C. investigators are civilians, complainants were willing to discuss the details of their complaints frankly. However, they remained unwilling to speak to any police officer, even those belonging to the Bureau. Accordingly, the Committee Against Police Harassment decided to encourage fearful complainants by offering them the choice of designating a member of the Committee as agent for the complainant, so that the Bureau could contact this agent.

While the approach was not completely satisfactory to complainants, or Bureau investigators, after several meetings involving the Public Complaints Commissioner, senior officers of the police force, and members of the Committee, it met with sufficient approval for an agreement to be reached. During the early part of 1984, sixteen complaints were filed, some directly, and others using the vehicle of a designated agent.

The sixteen formal complaints were investigated and dealt with in accordance with the Metropolitan Police Force Complaints Project Act, 1981.

In investigating the formal complaints, P.C.C. investigators talked to over 200 Regent Park residents and police officers. In the course of these discussions, some general perceptions emerged that appeared to have potentially serious implications for ongoing police-community relations in the area. The Public Complaints Commissioner decided to address these perceptions and propose some solutions, with a view to improving police-community relations.

Accordingly, a 38 page report was prepared and presented to the Board of Commissioners of Police of Metropolitan Toronto. The report contained a summary of issues affecting the area and a series of recommendations. Chief among these recommendations was a suggestion that police-community consultation be undertaken through the formation of an advisory committee of Regent Park residents, police officers (both management and constables) some representatives of social service agencies active in the community, an alderman, and a member of the Metropolitan Toronto Board of Commissioners of Police.

The following are the recommendations as listed in the Report:

RECOMMENDATION #1

> I RECOMMEND THAT AN ADVISORY COMMITTEE BE SET UP IN REGENT PARK TO UNDERTAKE DIALOGUE BETWEEN POLICE AND COMMUNITY. IDEALLY, AT LEAST HALF OF THE MEMBERSHIP OF THE COMMITTEE SHOULD BE REGENT PARK RESIDENTS. THE BALANCE OF THE COMMITTEE SHOULD INCLUDE AT LEAST ONE SENIOR OFFICER FROM THE DIVISION (PREFERABLY THE UNIT COMMANDER), ETHNIC AND COMMUNITY RELATIONS OFFICERS, REGULAR POLICE CONSTABLES, SOME REPRESENTATIVES OF SOCIAL SERVICE AGENCIES ACTIVE IN THE COMMUNITY, AN ALDERMAN FOR THE AREA, AND A MEMBER OF THE METROPOLITAN TORONTO BOARD OF COMMISSIONERS OF POLICE. THE COMMITTEE SHOULD MEET IN REGENT PARK SO

AS TO BE ACCESSIBLE TO RESIDENTS, AND SHOULD RECEIVE ANY NECESSARY ADMINISTRATIVE SUPPORT FROM THE METROPOLITAN TORONTO BOARD OF COMMISSIONERS OF POLICE.

The Commissioner also suggested certain agenda items for the Committee. These are listed and discussed in the public Report.

RECOMMENDATION #2

(A) THE DISPATCHER IN THE RADIO ROOM SHOULD INFORM THE OFFICER IN CHARGE OF THE STATION WHEN THERE ARE THREE OR MORE CARS RESPONDING TO AN INCIDENT.

(B) THE OFFICER IN CHARGE OF THE STATION SHOULD ENSURE THAT A SUPERVISORY OFFICER ON THE ROAD ATTENDS THE SCENE WHEN THERE ARE THREE OR MORE CARS RESPONDING TO A CALL.

(C) THE SUPERVISORY OFFICER SHOULD BE RESPONSIBLE FOR CONTROLLING THE SITUATION AND FOR RECORDING WHAT OCCURS. IF UNNECESSARY CARS ATTEND, THE SUPERVISORY OFFICER SHOULD CLEAR SUCH CARS AWAY FROM THE AREA.

(D) NO OFFICER SHOULD ATTEND AN INCIDENT WITHOUT INFORMING THE DISPATCHER OF HIS/HER INTENTION TO DO SO. (THIS RECOMMENDATION REFLECTS AN EXISTING POLICE REGULATION, REGULATION 5.8.9.).

RECOMMENDATION #3

I RECOMMEND THAT THE METROPOLITAN TORONTO BOARD OF COMMISSIONERS OF POLICE ENSURE THAT WRITTEN DIRECTION BE GIVEN TO THE METROPOLITAN TORONTO POLICE FORCE AS TO PROCEDURE TO BE FOLLOWED PRIOR TO QUESTIONING A

DETAINED PERSON. I RECOMMEND THAT THE PROCEDURE CONTAIN A SIMPLY-WORDED SPECIFIC WRITTEN EXPLANATION OF THE RIGHT TO COUNSEL, RATHER THAN A DIRECT QUOTATION FROM THE CHARTER OF RIGHTS.

IF A PERSON IS TAKEN TO THE POLICE STATION, I RECOMMEND THAT THE RESPONSIBILITY FOR EXPLAINING THE RIGHT TO CONSULT COUNSEL AND FOR ASSISTING THE DETAINED PERSON TO GET IN TOUCH WITH COUNSEL, REST UPON THE OFFICER IN CHARGE OF THE STATION. IF A PERSON IS DETAINED IN OTHER CIRCUMSTANCES, (SUCH AS IN A POLICE VEHICLE), RESPONSIBILITY SHOULD LIE WITH THE ARRESTING OFFICER.

RECOMMENDATION #4

I RECOMMEND THAT A STUDY BE COMMISSIONED BY THE METROPOLITAN TORONTO BOARD OF COMMISSIONERS OF POLICE ON CHARGES OF CAUSING A DISTURBANCE, ASSAULT POLICE AND OBSTRUCT POLICE. THE STUDY SHOULD ENCOMPASS CHARGES LAID OVER A TWO YEAR PERIOD. THE STUDY SHOULD EXPLORE HOW MANY CHARGES HAVE BEEN LAID, BY WHOM, AND IN WHAT CIRCUMSTANCES AND WITH WHAT RESULTING CONVICTION RATE, WITH A VIEW TO ESTABLISHING WHETHER THERE IS ANY BASIS FOR THE ABOVE-STATED CONCERNS.

The response of the Board of Commissioners of Police was generally favourable, and Recommendation #1 was accepted immediately. The other recommendations are being considered.

The following is quoted from the minutes of the meeting of the Metropolitan Toronto Board of Commissioners of Police at its meeting of March 28, 1985:

"Alderman Campbell expressed her appreciation for the work of Mr. Linden, and said his report was excellent. She also thanked the members of the Regent Park community for their work that went into the report.

Alderman Campbell advised that she had met with Ms. Rosanna Scotti, Director of Multicultural and Race Relations for Metropolitan Toronto, and discussed the possibility of the Metropolitan Corporation providing support at the staff level to the Advisory Committee proposed by Mr. Linden. She suggested that Ms. Scotti be consulted as to whether the Metropolitan Corporation would provide administrative support in this regard.

Alderman Reville advised that he was pleased with the report and said that its direction was absolutely right. He complimented Mr. Linden, Staff Inspector Maher and former Chief Ackroyd for their co-operation with himself and Alderman Campbell in dealing with the concerns of the Regent Park community.

Ruby Wood advised that she was very much in favour of the report and all of its recommendations. She noted that there had been a Regent Park police-community relations committee in the past as part of Project 51, but she said the committee was too large and the community did not get involved. She recommended that the committee proposed by Mr. Linden start off very small and then build up.

On a motion by Mayor Eggleton, the Board adopted the following:

1) that an Advisory Committee be established in Regent Park to undertake dialogue between the police and the community;

2) that Ms. Jane Pepino, Q.C., be appointed as the representative of the Board on the Advisory Committee;

3) that the Chief of Police report on the initial size and structure of the Advisory Committee;

4) that the Chief of Police also report on the other recommendations made by Mr. Linden;

5) that the Chief of Police consult with the Director of Multicultural and Race Relations on the possibility of the Metropolitan Corporation providing administrative support at the staff level to the Advisory Committee.

Ms. Pepino said that she was delighted to serve on this committee. She said she had become aware of the problems with Project 51 when she was serving on the Human Rights Commission, and she was pleased that this time, the committee would be starting off on the right foot in a positive way, and she wanted to encourage that. It was noted that as Alderman Reville is resigning his seat to run in the provincial election, Alderman Campbell will be the Ward representative on the committee.

The Chief of Police thanked Mr. Linden and the Regent Park community for their work on this report. He said that the establishment of a committee will be a positive step and agreed that it should start off small. He advised that he would respond to the Board's motion and Mr. Linden's report in two weeks time."

C. EDUCATION OF THE PUBLIC AND OF POLICE OFFICERS ABOUT THEIR RIGHTS AND RESPONSIBILITIES UNDER THE COMPLAINTS LEGISLATION

The 1983 Annual Report mentioned the need for public education about the new legislation. An effective complaint system cannot be maintained without outreach and educational efforts for the public. In addition, the system should be clearly explained to police officers, who might otherwise be unaware of their rights and responsibilities under the legislation.

In regard to the general public, the P.C.C.'s efforts and outreach in education began early in the project and have increased in variety and intensity in the second and third year. On three occasions, the P.C.C. has produced an advertisement which was published in over 100 newspapers and in over 30 different languages. Posters and pamphlets describing the system have been distributed widely through community information centres, legal clinics, courts, police stations, constituency offices of Metropolitan Toronto M.P's and M.P.P.'s, and city aldermen, as well as other outlets. The Commissioner and members of the P.C.C. staff have given interviews for television, radio and newspapers. Presentations have also been given at high schools and at law schools.

The Commissioner also maintains an active liaison with agencies involved in the representation of various minority, racial and ethnic communities. The Commissioner sits as a resource person on a number of Mayors' Committees on ethnic and race relations, and is a member of the Metropolitan Toronto Council on Race Relations and Policing.

P.C.C. staff have attended a series of meetings with ethnic associations, legal clinics and service agencies to explain the complaint system to community workers who might be referring complainants. In addition, the P.C.C. has produced an educational tape to the dial-a-law program of the Law Society of Upper Canada. Those requesting information from the program are provided with information from the tape.

In regard to educating members of the police force about the complaint system, the P.C.C. has conducted educational sessions at police stations and police colleges to explain the system, and these efforts are continuing. The Commissioner has also met with the Metropolitan Toronto Board of Commissioners of Police and the Ontario Police Commission to discuss the system.

PART III

RESEARCH AND STATISTICS

A. INTRODUCTION

Research data and statistics on all phases of the complaints procedure were gathered for the third year of operation of the P.C.C. from December 21, 1983 to December 20, 1984. All cases that were closed within that period are included in the present database. It should be noted that these statistics deal only with public complaints filed against police officers in the Metropolitan Toronto Police Force.

A total of 790 cases were opened in 1984, compared to 758 cases opened in 1983. Of the 1,077 cases that were open at some point during 1984,* 643 cases were closed (completed) by December 20, 1984; 394 cases remained open and 40 failed to develop.**

The 790 cases filed in 1984 represent an average of roughly 65.8 cases per month. The actual number of complaints that were filed each month is presented on the next page.

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* The 1,077 cases consist of 790 cases opened in 1984 plus 287 cases carried over from previous years, in which the investigations had not been completed that year.

** Cases that failed to develop were cases that included, among others, complainants who arranged meetings with investigators but failed to attend, complainants who failed to contact the Office or who did not respond to follow-up letters, and complaints that proved to be out of the jurisdiction of the P.C.C.

	No.	%
January	73	9.2
February	64	8.1
March	67	8.5
April	77	9.7
May	63	8.0
June	55	7.0
July	69	8.7
August	74	9.4
September	61	7.7
October	67	8.5
November	56	7.1
December	64	8.1
TOTAL	790	100.0

Once a complaint case is completed, the closed file is forwarded to the Research Section and a Complaint Recording Form completed. The Complaint Recording Form is designed to obtain maximum information from each complaint case filed, such as: the date, location and police division of the occurrence; number and type of allegations; precipitating factors and alleged injuries, and extensive details on all stages of the complaint process from the date of filing to the date of final disposition. Information relating to the time involved from one stage of the process to various other stages is also gathered in order to provide an indication of how efficiently the system is operating.

B. RESEARCH FINDINGS GATHERED FROM COMPLAINT RECORDING FORMS

The statistics collected from the Complaint Recording Form for cases closed between December 21, 1983 and December 20, 1984 will be presented below. This database of closed cases consists of a total of 643 cases: 3.3% of these cases were filed in 1982, 40.6% were filed in 1983, while the remaining 56.1% were filed in 1984.

1. Where Complaints Filed

The majority of the complaints were once again filed at a police station (40.1%); 31.4% were filed with the Public Complaints Commissioner; 19.3% were filed with the Public Complaints Investigation Bureau; 8.4% were filed with the Chief of Police. 0.8% of the complaints were filed with the Ontario Police Commission.

Nearly one-third of all the complaints filed (31.4%) were filed with the P.C.C. This figure represents an increase of 6.6% from last year's figure of 24.8%. Thus, it would appear that word of the office is spreading. These data may be found in Table 1.*

14.9% of the complaints were filed by letter while 85.1% were filed in person.

2. Time and Date of Complaint Incident

A slightly higher number of complaint incidents appeared to occur over the weekend -- from Friday to

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* For some areas of particular interest, the frequency distributions for two years of data collection (1983 and 1984) were included in the Tables.

TABLE 1

LOCATION WHERE COMPLAINTS FILED

	1983		1984	
	No.	%	No.	%
POLICE STATION	324	42.8	258	40.1
PUBLIC COMPLAINTS COMMISSIONER	188	24.8	202	31.4
PUBLIC COMPLAINTS INVESTIGATION BUREAU	185	24.4	124	19.3
CHIEF OF POLICE	44	5.8	54	8.4
ONTARIO POLICE COMMISSION	10	1.3	5	0.8
OTHER	6	0.9	0	0.0
TOTAL CASES	757	100.0	643	100.0

Sunday, which accounted for roughly half of all complaint occurrences (48.2%). There was a relatively equal distribution of occurrences on the remaining days ranging from 11% to 14% per day. The full list of the days of the week and the respective number of complaint incidents taking place on each day may be found in Table 2.

The days on which complaints were actually filed, however, vary considerably from the days on which the complaints actually occurred. The variance between occurrence date and the filing date is attributable to the fact that relatively few complaints (28.5%) were filed on the same day as the date of the complaint incident. The most frequent days on which complaints were formally lodged were at the beginning of the week from Monday to Wednesday -- accounting for 56.6% of all complaints filed. Relatively few complaints were filed on Saturdays and Sundays. These data may be found in Table 3.

With respect to the time of day at which a complaint incident occurred, roughly 60% of the incidents leading to complaints took place between 6 p.m. and 3 a.m. (61.9%). The one time period which accounted for the greatest number of total occurrences was from midnight to 3 a.m. -- 25.1% of all occurrences took place during this time period. The complete list of time of occurrences is presented in Table 4.

3. Time from Date of Occurrence to Date of Filing

The number of days from the date a complaint incident took place to the date the complaint was actually filed averaged 15.9 days. This figure is somewhat misleading, however, since nearly two-thirds of the complaints

TABLE 2

DAY COMPLAINT INCIDENT OCCURRED

	No.	%
MONDAY	71	11.2
TUESDAY	91	14.4
WEDNESDAY	81	12.8
THURSDAY	85	13.4
FRIDAY	93	14.7
SATURDAY	124	19.6
SUNDAY	88	13.9
TOTAL CASES	633*	100.0

* NOTE: When the total of the "number" column is less than the actual total for the database (643), the difference is due to the fact that some information required for the table was missing, thus reducing the total for that particular measure.

TABLE 3

DAY COMPLAINT FILED

	No.	%
MONDAY	123	19.1
TUESDAY	118	18.4
WEDNESDAY	123	19.1
THURSDAY	81	12.6
FRIDAY	108	16.8
SATURDAY	48	7.5
SUNDAY	42	6.5
TOTAL CASES	643	100.0

TABLE 4

TIME COMPLAINT INCIDENT OCCURRED

	No.	%
12:01 A.M. TO 3:00 A.M.	148	25.1
3:01 A.M. TO 6:00 A.M.	28	4.7
6:01 A.M. TO 9:00 A.M.	23	3.9
9:01 A.M. TO NOON	36	6.1
NOON TO 3:00 P.M.	60	10.2
3:01 P.M. TO 6:00 P.M.	78	13.2
6:01 P.M. TO 9:00 P.M.	111	18.8
9:01 P.M. TO 12:00 P.M.	106	18.0
TOTAL CASES	590	100.0

(64.1%), were filed within one week of the occurrence: 28.5% of the complaints were filed on the same day as the date of the occurrence, while 12.1% were filed on the next day. 12.0% were filed two to three days later, while another 11.5% of the complaints were filed four to seven days after the occurrence. The data on the number of days from the date of occurrence to date of filing is presented in Table 5.

4. Month of Occurrence

No discernible pattern was found with respect to the month in which complaint incidents occurred. There was a fairly equal distribution of occurrences over the 12 months of the year, ranging from 6.9% in September to 10.8% in April. These data are presented in Table 6.

5. Location of Complaint Incident

51.9% of the incidents that led to the lodging of complaints against the police took place on the street. The next most frequent location was at a residence (18.5%). In order of declining frequency, incidents also occurred in: public buildings (13.4%), police buildings (11.7%), police vehicles (2.2%), plazas or malls (1.7%), and school yards (0.6%). The complete list of locations of occurrences leading to complaints may be found in Table 7.

TABLE 5

TIME FROM DATE OF OCCURRENCE TO DATE OF FILING

	No.	%
SAME DAY	181	28.5
1 DAY	77	12.1
2-3 DAYS	76	12.0
4-5 DAYS	37	5.8
6-7 DAYS	36	5.7
8-14 DAYS	81	12.8
15-21 DAYS	30	4.7
22-30 DAYS	18	2.8
31-45 DAYS	19	3.0
46-60 DAYS	11	1.7
61-90 DAYS	21	3.3
OVER 90 DAYS	48	7.6
TOTAL CASES	635	100.0

$\overline{X}$ DAYS = 15.9

TABLE 6

MONTH OF OCCURRENCE

	No.	%
JANUARY	60	9.4
FEBRUARY	46	7.2
MARCH	55	8.6
APRIL	69	10.8
MAY	51	8.0
JUNE	54	8.4
JULY	68	10.6
AUGUST	52	8.1
SEPTEMBER	44	6.9
OCTOBER	46	7.2
NOVEMBER	46	7.2
DECEMBER	49	7.6
TOTAL CASES	640	100.0

TABLE 7

LOCATION OF COMPLAINT INCIDENTS

	No.	%
STREET	334	51.9
RESIDENCE	119	18.5
PUBLIC BUILDING	86	13.4
POLICE BUILDING	75	11.7
POLICE VEHICLE	14	2.2
PLAZA OR MALL	11	1.7
SCHOOLYARD	4	0.6
TOTAL CASES	643	100.0

6. Police Divisions Involved in Complaints

The Police Division with the highest incidence of complaints was once again 52 Division, which accounted for 19.3% of all the complaints lodged. 14 Division had the next highest incidence with 9.1% of all complaints, followed by 55 Division with 8.9%. 31 Division accounted for 7.5% of all complaints while 51 Division accounted for 7.4%. The remaining Divisions all had 6.0% or fewer complaints lodged against their police officers. The full list of Police Divisions in which complaints occurred may be found in Table 8.

In an attempt to account for the rather high incidence of complaints arising out of 52 Division, one may again point to its location in the downtown core where there is considerably more activity than in other areas. The high number of contacts that officers of this Division have with the public could also contribute to a greater number of complaints arising out of this Division. Another factor may be that 52 Division has the largest number of police officers of any Division in Metropolitan Toronto.

7. Types of Complaint Allegations

The average number of allegations per complainant was 2.0. 70.6% of the cases contained one (33.9%) or two (36.7%) complaint allegations. Three, four or five complaint allegations were made by 20.7%, 6.8% and 1.6% of the complainants respectively. Two cases (0.3%) involved six complaint allegations per case.

The most frequent type of allegation lodged against a police officer was assault: nearly half of the complaints

TABLE 8

POLICE DIVISION IN WHICH COMPLAINTS OCCURRED

	1983		1984	
POLICE DIVISION	No.	%	No.	%
DIVISION 11	30	4.1	25	3.9
DIVISION 12	18	2.5	13	2.1
DIVISION 13	29	4.0	33	5.2
DIVISION 14	62	8.4	58	9.1
DIVISION 21	15	2.0	13	2.1
DIVISION 22	35	4.8	32	5.0
DIVISION 23	27	3.7	14	2.2
DIVISION 31	58	7.9	48	7.5
DIVISION 32	33	4.5	31	4.9
DIVISION 33	27	3.7	21	3.3
DIVISION 41	40	5.4	37	5.8
DIVISION 42	18	2.5	18	2.8
DIVISION 43	41	5.6	14	2.2
DIVISION 51	37	5.0	47	7.4
DIVISION 52	119	16.2	123	19.3
DIVISION 53	40	5.4	16	2.5
DIVISION 54	36	4.9	37	5.8
DIVISION 55	69	9.4	57	8.9
TOTAL CASES	734	100.0	637	100.0

filed involved an allegation of assault against a police officer -- 41.4% complained of common assault* while 5.6% complained of assault causing bodily harm. The latter decreased considerably from 8.6% in 1983. The second most frequent complaint was that of verbal abuse/incivility, with 45.3% of the complainants filing this type of complaint. The following four types of complaints also appeared with some regularity: irregularity in procedure 32.3%; harassment/oppressive conduct/threats 24.6%; unlawful arrest 11.2%; mishandling of property 8.7%; neglect of duty 8.6%; and unlawful search 5.0%. The complete list of types of complaints and the number of complainants who complained of each type may be found in Table 9.

8. Precipitating Factors

The actual incident that led to or precipitated the complaint was also recorded in the complaint recording form. The most common type of incident involved police officers stopping people for traffic violations: 30.8% of all complaints arose out of this situation. The second most frequent precipitating factor involved a criminal investigation by the police (29.2%). The only other precipitating factor which occurred with any regularity was arrest: 19.8% of the complaints resulted from an incident that occurred during the arrest of the complainant. There appeared to be no apparent precipitating factor in 6.0% of the cases. The full list of precipitating factors is presented in Table 10.

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* Common assault includes any allegation of force such as a shove, a push or a nudge.

TABLE 9

TYPES OF COMPLAINT ALLEGATIONS FILED

	1983		1984	
	No.	%	No.	%
ASSAULT	385	50.9	302	47.0
COMMON ASSAULT	320	42.3	266	41.4
ASSAULT BODILY HARM	65	8.6	36	5.6
VERBAL ABUSE/INCIVILITY	356	47.0	291	45.3
HARASSMENT/THREAT/ OPPRESSIVE CONDUCT	222	29.3	158	24.6
IRREGULARITY IN PROCEDURE	201	26.6	208	32.3
MISHANDLING OR DAMAGE TO PROPERTY	82	10.8	56	8.7
NEGLECT OF DUTY	66	8.7	55	8.6
UNLAWFUL ARREST	54	7.1	72	11.2
UNLAWFUL SEARCH	45	5.9	32	5.0
DECEIT	24	3.2	19	3.0
TRAFFIC IRREGULARITY BY OFFICER	20	2.6	17	2.6
TRAFFIC IRREGULARITY/IMPROPER EXERCISE OF DISCRETION	15	2.0	4	0.6
CORRUPTION/THEFT/FRAUD	12	1.6	9	1.4
INTOXICATED	7	0.9	6	0.9
IRREGULARITY RE: EVIDENCE	6	0.8	9	1.4
NO FOLLOW-UP	4	0.5	5	0.8
BREACH OF CONFIDENCE	2	0.3	4	0.6
SEXUAL HARASSMENT	1	0.1	2	0.3
INADEQUATE POLICE SERVICE	0	0.0	6	0.9
OTHER	5	0.7	2	0.3
TOTAL RESPONSES	1507	199.0	1257	195.5

NOTE: The total percentage of complaint allegations exceeds 100% due to the fact that some complainants lodged more than one allegation. The percentages reported above reflect the percentage of complainants who lodged each type of complaint allegation.

TABLE 10

FACTORS PRECIPITATING COMPLAINTS

	1983		1984	
	No.	%	No.	%
CRIMINAL INVESTIGATION	260	34.3	188	29.2
TRAFFIC VIOLATION	200	26.4	198	30.8
ARREST	127	16.8	127	19.8
PARKING VIOLATION	31	4.0	33	5.1
BYLAW INVESTIGATION	27	3.6	7	1.1
INTERROGATION	21	2.8	2	0.3
REQUEST IDENTIFICATION	12	1.6	13	2.0
DOMESTIC MATTER	8	1.1	19	3.0
DURING COURT PROCEEDINGS	3	0.4	0	0.0
LANDLORD/TENANT DISPUTE	3	0.4	5	0.8
OTHER	10	1.3	12	1.9
NO APPARENT PRECIPITATING FACTOR	55	7.3	39	6.0
TOTAL CASES	757	100.0	643	100.0

A description of each type of precipitating factor is provided below.

Traffic Violations:

Sole cause of police intervention is a Highway Traffic Act offence (not Criminal Code offence such as impaired driving, which would be coded as criminal investigation) and the allegation of misconduct arises out of this intervention. Example: Allegation that officer called complainant a "goof" when giving a speeding ticket.

Criminal Investigation:

Sole cause of police intervention is the investigation of a criminal offence. Police may have been called in or intervened of their own accord and the allegation of misconduct arose when they were in the process of investigating a crime. Criminal investigation could occur anywhere, e.g. residence, shopping mall, police building.

Example: Allegation of assault at police station while officers attempting to take a statement from the complainant to confess to a crime. Example: Officer has a description of a suspect. Complainant is walking along street. Officer thinks he has reasonable and probable grounds to believe that complainant is the suspect. Officer asks for identification. Complainant refuses. Officer arrests complainant. Allegation is that officer has no right to ask for identification.

Arrest:

Allegation of misconduct occurs while police are in the act of effecting an arrest. Example: Same as in Criminal Investigation example, except that allegation is that officer struck complainant at time of arrest.

Interrogation Unrelated to Criminal Activity:

Questioning complainant about matters not related to any specific criminal offence. No indication that complainant is under arrest although he may be detained. If detained, the complainant is released without being charged. Example: Complainant is walking along the street and asked why she is walking alone late at night, where she lives, who she lives with and where she works. Allegation is that officer was harassing her.

Request for Identification:

Sole cause of police intervention is request for identification. No indication that complainant was involved in any offence or that police were investigating any offence and not a situation where it may be mandatory to identify oneself (e.g., Highway Traffic Act). Example: Complainant is walking along street and police officer asks her for her name. Complainant refuses and police officer then asks her to produce identification. Complainant again refuses. Allegation is that officer had no right to ask for identification and that officer shouted and swore at complainant following her second refusal; when she finally complied, the officer detained her in his police cruiser for twenty minutes while he checked her out over his radio.

Parking Violation:

Sole cause of police intervention is a parking violation and allegation of misconduct arises out of this intervention. Example: Allegation that officer improperly exercised discretion when she gave complainant a ticket in a no parking zone. Complainant drives for a courrier service in a clearly marked stationwagon with an "on delivery" sign. He was away from his vehicle for five minutes and officer was just beginning to write ticket when he returned, but would not listen to his explanation.

Domestic Matter:

Sole cause of police intervention was a call to assist in a domestic dispute and an allegation arises out of this intervention. Example: Allegation that officer struck complainant whose wife had called police to help her defend against a drunken husband.

No Precipitating Factor:

No apparent cause that precipitated the complaint. Example: Complainant standing on sidewalk. Police cruiser stops and with hand motions complainant to cross. Complainant did not wish to use crosswalk, i.e., was waiting for streetcar and motioned officer to this effect. Verbal abuse allegation followed.

Other:

Situations that do not fall into any of the above categories. Example: Police officer attended complainant's home in uniform to collect overdue rent. Officer is landlord of this building.

9. Alleged Injuries and Damages

There were no injuries alleged in 64.7% of the complaints filed. For the remainder, the most frequent type of injury alleged was cuts or bruises: 31.8% of the complainants reported this type of injury. The remaining types of injuries alleged occurred with very little frequency: 4.9% complained of injuries or pain inflicted by handcuffs while another 5.5% of the complainants reported fractures, internal injuries, damage to teeth, etc. The full list of alleged injuries to complainants may be found in Table 11.

TABLE 11

ALLEGED INJURIES TO COMPLAINANTS

	1983		1984	
	No.	%	No.	%
CUTS, BRUISES	269	35.7	203	31.8
HANDCUFF INJURIES	26	3.5	31	4.9
FRACTURES	13	1.7	15	2.4
TEETH	10	1.3	6	0.9
INTERNAL INJURIES	6	0.8	8	1.3
GENITALIA INJURIES	2	0.3	6	0.9
NO INJURIES	472	62.7	413	64.7
TOTAL RESPONSES	798	106.0	682	106.9

NOTE: The total number of injuries alleged exceeds 100% due to the fact that a complainant could have suffered more than one injury.

The severity of the injuries was also recorded with respect to those complainants who alleged injuries: 42.3% of the alleged injuries were minor in nature (mild bruises, small lacerations - i.e. scratches); 50.0% of the alleged injuries were moderate (extensive bruising, cuts, swelling), while 7.7% of the alleged injuries were considered to be serious in nature (very extensive bruising, fractures, severe lacerations, severe swelling, internal injuries).*

Complainants attended a hospital in 41.8% of those cases in which injuries were alleged.

Of those cases in which allegations of assault had been made, 14.6% made mention of a baton being used in the assault allegation. Batons were allegedly used in a variety of ways: the police officer held the baton to the complainant's neck, jabbed, poked or hit the complainant with the baton. Last year, use of a baton was mentioned in 18.7% of the cases involving assault allegations, and 12.8% the year before.

The incidence of property damage claimed by complainants was relatively low. Only 6.4% of the complaints involved allegations of property damage. In 4.2% of the complaints, alleged damage was considered to be minor in nature (damage estimated under $75 - small scratches, dents, etc.), while in 1.1% of the complaints, alleged damage was of moderate severity (damage estimated under $150 - broken windows, damaged doors, etc.). The remaining 1.1% of the cases involved allegations of serious property damage estimated at a value greater than $150.*

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* The degree of severity for the injuries recorded was a subjective judgment made on the part of the researcher coding this information.

10. Photographs Taken

In cases of injury or property damage, no photographs were taken in 54.2% of the cases. This may be accounted for by the fact that the injuries involved in many of these cases were no longer visible at the time the complaint was filed. In addition, where the injury was internal, and thus not visible, no photographs would be taken. Photographs were taken by the Police Identification Unit in 32.0% of the cases, by the Public Complaints Commissioner in 5.8% of the cases, and by the complainant or others in 8.0% of the cases.

The data on photographs taken are presented in Table 12.

11. Type of Police Mobilization

In 72.8% of the cases the police used their own discretion to intervene. In 27.2% of the cases, the police were called, that is, their assistance was requested and a complaint incident subsequently arose out of the situation.

In 57.2% of the cases the complainants were not in police custody at the time of the complaint incident. In 42.8% of the cases the complainant was either being taken into custody or was actually in custody at a Police Station at the time of the complaint incident.

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* The degree of severity for the property damage noted was a subjective judgment made on the part of the researcher coding this information.

TABLE 12

PHOTOGRAPHS TAKEN OF INJURIES ALLEGED TO HAVE RESULTED FROM POLICE MISCONDUCT

	1983		1984	
	No.	%	No.	%
BY POLICE IDENTIFICATION UNIT	111	39.6	72	32.0
BY PUBLIC COMPLAINTS COMMISSIONER	23	8.2	13	5.8
BY OTHERS	1	0.4	2	0.9
BY COMPLAINANT	3	1.1	7	3.1
BY BUREAU	4	1.4	9	4.0
NO PHOTOGRAPHS TAKEN	138	49.3	122	54.2
TOTAL CASES	280	100.0	225	100.0

C. DATA ON COMPLAINANTS

1. Police Division of Complaint

The Police Division in which the complaint incident actually occurred was often the same as the one in which the complainant lived, or was adjacent to the Division where the complainant lived. 47.9% of the complainants lived in the same Police Division as that of the occurrence while 20.0% lived in a Division adjacent to the Division of the occurrence. 32.1% of the complaint incidents did not take place in a Division close to the complainant's residence.

2. Sex, Age & Residence of Complainants

The great majority of complainants was once again male (82.9%); female complainants comprised 17.1% of the total. Complainants tended to be young, with two-thirds of them being 35 years of age or under: 34.2% were 25 years of age or under while 32.3% were 26 to 35 years of age. The full list of age categories of complainants may be found in Table 13.

The majority of complainants (83.3%) lived in unsubsidized housing while 8.8% lived in subsidized dwellings. These data are presented in Table 14.

15.5% of the complainants were allegedly or admittedly intoxicated or on drugs at the time of the complaint incident: 14.6% were allegedly or admittedly intoxicated while 0.3% were allegedly or admittedly on drugs. Another 0.6% had apparently consumed both alcohol and drugs.

TABLE 13

AGE OF COMPLAINANTS

	No.	%
UNDER 16 YEARS	8	1.5
16 TO 17 YEARS	11	2.1
18 TO 25 YEARS	160	30.6
26 TO 35 YEARS	169	32.3
36 TO 45 YEARS	97	18.5
46 TO 55 YEARS	49	9.4
56 TO 65 YEARS	20	3.9
OVER 65 YEARS	9	1.7
TOTAL CASES	523	100.0

TABLE 14

RESIDENCE OF COMPLAINANTS

	No.	%
UNSUBSIDIZED SINGLE/MULTIPLE DWELLING	345	57.0
UNSUBSIDIZED HIGHRISE	159	26.3
	504	83.3
SUBSIDIZED SINGLE/MULTIPLE DWELLING	18	3.0
SUBSIDIZED HIGHRISE	35	5.8
	53	8.8
OTHER	48	7.9
TOTAL CASES	605	100.0

3. Minority Aspect of Complaints

One aspect of the complaint, as seen from the complainant's perspective, was some form of racially derogatory comment in 7.3% of the cases, and harassment by police of homosexuals in 1.1% of the cases. This is down somewhat from last year's figures of 9.4 and 1.3%, respectively. Accordingly, the large majority of complaints filed (91.6%) did not appear to arise from racial or homosexual causes as indicated by the complainant.

4. Criminal Charges Against Complainants

In fewer than one third of the incidents giving rise to complaints (29.7%), the police laid criminal charges against complainants -- dangerous-driving charges, obstruct police, property offences, etc. The full list of criminal charges may be found in Table 15.* The vast majority of these charges (99.5%) were laid before a complaint had been filed by the complainant.

Of the 191 charges laid against complainants, the P.C.C. was unable to determine the outcome in 29 of the cases simply because this information was not available. Of the remaining charges, 56.2% of the complainants were found guilty as charged, while 19.8% were found not guilty. 13.0% of the charges were withdrawn. The outcome in 8.6% of the cases is still pending, while a bench warrant was issued in the remaining 2.4% of the cases.

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* In some cases there were multiple charges laid. Only the most serious charge was recorded for the purposes of our data collection.

TABLE 15

CRIMINAL CHARGES* LAID BY POLICE AGAINST COMPLAINANTS

	1983		1984	
	No.	%	No.	%
NO CRIMINAL CHARGE	524	69.2	452	70.3
INTOXICATED, DISORDERLY	22	2.9	16	2.5
OBSTRUCT POLICE	54	7.1	42	6.5
DRIVING VIOLATION	43	5.7	28	4.4
PROPERTY OFFENCE	63	8.3	32	5.0
ASSAULT	34	4.5	51	7.9
PUBLIC MISCHIEF	3	0.4	3	0.5
OTHER	14	1.9	19	2.9
TOTAL CASES	757	100.0	643	100.0

NOTE: In some cases there were multiple charges laid. Only the most serious charge was recorded for the purposes of our data collection.

D. POLICE OFFICERS INVOLVED IN COMPLAINTS

This section consists of a discussion of the police officers that were involved in the complaint allegations filed. 1074 police officers were involved in the closed cases for this year (excluding withdrawn cases)*. Descriptive data on officers were collected up to a maximum of four officers per complaint. Since most cases involved only a few officers, allowing space for up to four to be coded was generally more than sufficient. There were, however, several cases which exceeded four officers in number but only four could be coded. Thus the number of officers for whom descriptive data was collected (1009) was less than the actual number involved in this year's closed cases (1074). Officers in 10 cases could not be identified and were, thus, treated as missing data, reducing the total to 999. On the average, there were 1.6 police officers involved per complaint filed.

Only one police officer was involved in 52.6% of the cases while two police officers were involved in 28.0% -- this accounted for 80.6% of the total. The data on the number of police officers involved per complainant may be found in Table 16.

The great majority of police officers (98.8%) were on duty at the time that the complaint incident occurred. Only 1.2% of the officers were off duty during the incident.

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* Data on police officers were not pursued in cases where the complaint was later withdrawn.

TABLE 16

NUMBER OF POLICE OFFICERS INVOLVED PER COMPLAINT

POLICE OFFICERS	No.	%
1	295	52.6
2	157	28.0
3	41	7.3
4	37	6.6
5	18	3.2
6	7	1.2
7	4	0.7
8	2	0.4
TOTAL CASES	561 *	100.0

$\overline{X}$ = 1.6 OFFICERS

* NOTE: The total number of relevant cases involved here is 563: 643 (total closed cases) minus 80 (withdrawn cases) = 563. There were 2 cases in which data on the number of police officers were missing, thereby reducing the total to 561.

1. Rank of Police Officers Involved in Complaints

Very few of the police officers involved in complaints were senior officers: 3.3% were staff inspectors or staff sergeants, while 10.4% were sergeants. Thus, 13.7% of the total number of police officers involved in the complaints occupied a rank higher than constable. The majority of the officers complained of had the rank of police constable first class (77.0%). The remaining officers were second, third or fourth class constables. These data may be found in Table 17.

2. Years of Service for Police Officers Involved in Complaints

7.4% of the police officers involved in complaints had one to two years of service while 16.4% had three to five years of service with the Force. The majority, 59.2%, had six to fifteen years of experience with the Force: 40.8% were with the Force six to ten years while 18.4% had been with the Force eleven to fifteen years. The remaining 17.0% had been with the Force for over sixteen years. These data may be found in Table 18.

3. Private Criminal Charges Laid by Complainants Against Police Officers

In nine cases (1.4%), criminal charges were laid privately by complainants against police officers. In six of these cases the charge laid was common assault and in the remaining three cases, the charge was assault causing bodily harm. Four of the nine cases were withdrawn before they went to trial. In the five other cases, the police officers were found not guilty.

TABLE 17

RANK OF POLICE OFFICERS INVOLVED IN COMPLAINTS

	1983		1984	
	No.	%	No.	%
STAFF SUPERINTENDENT	1	0.1	0	0.0
STAFF INSPECTOR	5	0.5	2	0.2
STAFF SERGEANT	30	2.8	31	3.1
SERGEANT	109	10.3	104	10.4
CONSTABLE 1	788	74.5	769	77.0
CONSTABLE 2	63	6.0	52	5.2
CONSTABLE 3	52	4.9	34	3.4
CONSTABLE 4	10	0.9	7	0.7
TOTAL OFFICERS	1058	100.0	999	100.0

TABLE 18

YEARS OF SERVICE FOR OFFICERS NAMED IN COMPLAINTS

	1983		1984	
	No.	%	No.	%
UNDER 1 YEAR	15	1.4	11	1.2
1 TO 2 YEARS	90	8.5	62	6.2
3 TO 5 YEARS	186	17.6	164	16.4
6 TO 10 YEARS	465	44.0	407	40.8
11 TO 15 YEARS	156	14.8	183	18.4
16 TO 20 YEARS	79	7.5	102	10.2
OVER 20 YEARS	65	6.2	68	6.8
TOTAL OFFICERS	1056	100.0	997	100.0

E. DISPOSITIONS OF COMPLAINTS BY THE POLICE

The dispositions of complaints given by the Police Force are presented over several tables. The overall dispositions are presented in Table 19. 65.3% of the cases were formally resolved after a complete investigation had been conducted. This means that a decision was made by a Deputy Chief of Police regarding the complaint. 22.3% of the complaints were informally resolved to the expressed mutual satisfaction of both parties, while 12.4% of the cases were withdrawn.

A more detailed breakdown of the dispositions is presented in Table 20, consisting of an analysis of the entire sample with respect to the reasons given for the dispositions. Tables 20A, 20B and 20C deal separately with the dispositions given for formal and informal resolutions respectively.

1. Analysis of Formal Resolutions

420 of the cases in our sample (65.3%) were resolved formally. In those cases where there was a finding of "no action warranted", the primary reason was insufficient evidence to prove or disprove the allegation. This was the reason given in 64.5% of the formal resolutions. These cases generally involved an allegation by the complainant and a denial of that allegation by the police officer with no independent evidence to support either version of the incident. This does not mean that the Deputy Chief allotted more weight to the police officer's version of the events nor that he doubted the word or motive of either the complainant or the police officer. Rather, it means that the Deputy Chief declined to take action because insufficient evidence was available.

TABLE 19

DISPOSITIONS OF COMPLAINTS BY THE POLICE

	1983		1984	
	No.	%	No.	%
FORMAL RESOLUTIONS	441	58.2	420	65.3
INFORMAL RESOLUTIONS	214	28.3	143	22.3
COMPLAINTS WITHDRAWN	102	13.5	80	12.4
TOTAL CASES	757	100.0	643	100.0

TABLE 20

DETAILED ANALYSIS OF DISPOSITIONS OF COMPLAINTS BY THE POLICE

	No.	%
FORMAL RESOLUTIONS		
No action warranted due to:		
Insufficient evidence to prove allegation	271	42.1
Officer's statement verified by independent witness/corroborating evidence	73	11.4
Officer acted lawfully	40	6.2
Other	1	0.1
Officer counselled and/or cautioned	25	3.9
Officer charged under Police Act	7	1.2
Officer referred to Board by Deputy	2	0.3
Officer advised and/or spoken to	1	0.1
TOTAL FORMAL RESOLUTIONS	420	65.3
INFORMAL RESOLUTIONS		
Complainant content to make police force aware of complaint	75	11.7
Officer admitted allegation/apologized or explained actions to satisfaction of complainant	42	6.5
Parties signified agreement by signature; no apparent reason for agreement	14	2.2
Complainant acknowledged he may have been mistaken about alleged misconduct	7	1.2
Officer counselled and/or cautioned	4	0.6
Officer advised/spoken to by superiors	1	0.1
TOTAL INFORMAL RESOLUTIONS	143	22.3
COMPLAINTS WITHDRAWN	80	12.4
TOTAL DISPOSITIONS OF CASES	643	100.0

TABLE 20A

ANALYSIS OF FORMAL RESOLUTIONS BY THE POLICE

	No.	%
No action warranted due to:		
Insufficient evidence to prove allegation	271	64.5
Officer's statement verified by independent witness/corroborating evidence	73	17.4
Officer acted lawfully	40	9.5
Other	1	0.2
Officer counselled and/or cautioned	25	6.0
Officer charged under Police Act	7	1.7
Officer referred to Board by Deputy Chief*	2	0.5
Officer advised/spoken to	1	0.2
TOTAL FORMAL RESOLUTIONS	420	100.0

*NOTE: An Officer may also be referred to the Board by the Public Complaints Commissioner. See Table 22.

Other reasons for a finding of "no action warranted" were that the police officer's position had been verified independently by other witnesses (73 cases or 17.4%), and that the officer had acted lawfully (40 cases or 9.5%).

In 35 or 8.4% of these cases the Deputy Chief took some disciplinary or educational action: in 25 (6.0%) of the cases, the officer was counselled and/or cautioned; 7 cases led to disciplinary charges under the Police Act; 2 cases resulted in a Deputy Chief referring the matter to the Police Complaints Board; and one officer was advised/spoken to.

The Police Force defines a "caution" as a form of discipline where the officer is warned that further misconduct may result in a charge pursuant to the Police Act. A "counsel" is used where the actions of the officer involved relatively minor infractions committed unintentionally or through inexperience. It means that a superior officer speaks to the subject officer with a view to help him or her to improve performance. Both are forms of discipline and are recorded in the police officer's file, which is retained at Headquarters.

In the seven cases in which police officers were charged under the Police Act, two charges were withdrawn, two officers were found not guilty and three officers were convicted. Penalties were two reprimands and one reduction in rank. In one of the cases that was withdrawn, the officer was also counselled. 7 additional Police Act charges were laid in 1984; however, the trials for these cases remain pending.

Two cases were referred to the Police Complaints Board by the Deputy Chief, resulting in three separate hearings being called. In one hearing an officer was found guilty of misconduct and the Board ordered a forfeiture of 12 days pay. In the second case the Board dismissed the complaint and in the third case the case was withdrawn, as it related to the hearing where no misconduct was found. One additional case was referred to the Police Complaints Board by a Deputy Chief in 1984; however, the hearing in this matter is still pending.

The Deputy Chief of Police caused criminal charges to be laid against five officers in 1984. However, none of these were closed in the present reporting year and are, therefore, not included. Four of these charges are pending; in the other case the officer was found guilty of assault and sentenced to 30 days incarceration. The conviction and sentence are under appeal at the present time. It should be noted that in the previous year, nine officers were charged under the Police Act, and two under the Criminal Code.

In each case that is formally resolved, the Deputy Chief is required to give written reasons for his decision to the complainant, the subject officer and the Public Complaints Commissioner. A dissatisfied complainant has a right to have the P.C.C. review the Deputy Chief's decision. During the third year ending December, 1984, 98 requests for review were made. 80 cases were closed within the year (some of these dating from the first year) and are dealt with separately in this report.

52 review cases remained open on December 20, 1984, and will be included in the following year's report.

2. Disciplinary Action Taken by the Police

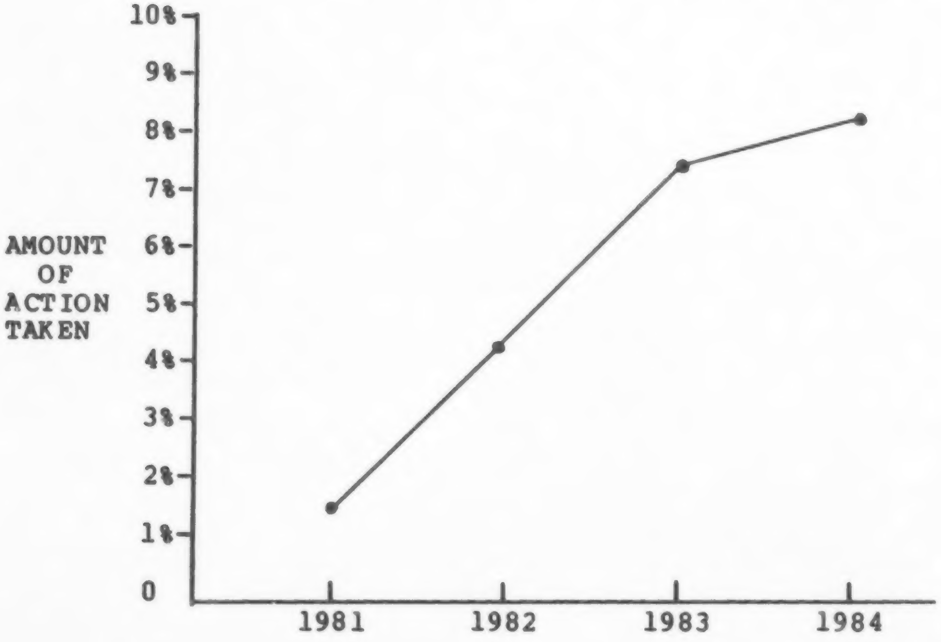
Disciplinary action taken by the Deputy Chief has progressively increased since the three year pilot project commenced on December 21, 1981. Prior to this, the P.C.C. functioned informally for the last five months of 1981. Statistics from that period showed that the Deputy Chief took some form of disciplinary action in 1.6% of the cases. In the first full year of operation (1982), the amount of disciplinary action increased to 4.2%. In the second year of operation (1983), the Deputy Chief took disciplinary action in 7.7% of the cases while in the third year (1984), this figure rose to 8.2%. In this context, disciplinary actions include a counsel or caution, Police Act charges or Criminal Code charges. These data may be found in Table 20B.

TABLE 20B

DISCIPLINARY ACTION TAKEN BY THE POLICE

	1981*	1982	1983	1984
	%	%	%	%
Officer counselled &/or cautioned	0.8	4.2	5.0	6.0
Officer charged under Police Act	0.0	0.0	2.0	1.7
Officer referred to Board	0.0	0.0	0.0	0.5
Officer charged under Criminal Code	0.8	0.0	0.7	0.0**
TOTAL DISCIPLINARY ACTION	1.6	4.2	7.7	8.2

GRAPHIC DEPICTION OF DISCIPLINARY ACTION TAKEN



* NOTE: Only 5 months data were available for 1981 -- from July 21 to December 21, 1981.

** Although no cases were closed in the present year, five charges were laid in 1984 which are still pending.

3. Analysis of Informal Resolutions

In 143 of the cases (22.3%), the complaints were resolved informally to the expressed mutual satisfaction of both parties.

Prior to the inception of the P.C.C., an informal resolution was simply recorded by the complainant signing a form indicating that the results of the investigation were explained to him and that he was satisfied with the investigation that was conducted. The form contained no details of the actual investigation nor any indication of the manner in which the complaint was resolved. It was not necessary for the subject officer to sign the form. As a result, the system was open to criticism because it did not preclude the possibility of a complainant signing the form without knowing the officer's response to his complaint or the nature and extent of the investigation that was conducted.

Under the new legislation, the officer in charge of the Bureau is required to consider whether a complaint can be resolved informally. In addition, complaints may be resolved informally by the Public Complaints Commissioner. Complaints can be resolved informally prior to, during or after completion of the investigation. However, a complaint may only be resolved informally if both the complainant and the subject officer agree. Furthermore, they must signify their agreement and satisfaction with the informal resolution by signing the specially designed form.

The manner in which the complaint is resolved must also be recorded. The form allows for a detailed explanation of the investigation conducted, including the officer's response, as well as an explanation of the manner in which the complaint was resolved. All informal resolutions are monitored by the Public Complaints Commissioner.

The 143 informal resolutions were analyzed in an attempt to discover the reasons why the complainants agreed to this method of resolution. These data may be found in Table 20C.

Overall, complaints that were resolved informally tended to be simpler in nature in that they involved fewer allegations of misconduct. Formally resolved complaints had an average of 2.2 allegations of misconduct per complaint whereas informally resolved complaints averaged 1.8 allegations of misconduct per complaint.

In 75 of the cases resolved informally (52.4%), the complainant was content simply to have brought the matter to the attention of the police force. In 42 of the informal resolutions (29.4%), the police officer either admitted the facts alleged, or apologized or explained his actions to the satisfaction of the complainant, while in 7 of the cases (4.9%) the complainant acknowledged that he may have been mistaken regarding the allegation of misconduct.

TABLE 20C

ANALYSIS OF INFORMAL RESOLUTIONS BY THE POLICE

	No.	%
Complainant content to make police force aware of complaint	75	52.4
Officer admitted allegation/apologized or explained actions to satisfaction of complainant	42	29.4
Parties signified agreement by signature; no apparent reason for agreement	14	9.8
Complainant acknowledged he may have been mistaken about alleged misconduct	7	4.9
Officer counselled and/or cautioned	4	2.8
Officer advised/spoken to by superiors	1	0.7
TOTAL INFORMAL RESOLUTIONS	143	100.0

In 4 cases (2.8%) the record of informal resolutions indicated that the officer was counselled and/or cautioned. In 1 case (0.7%) the record of informal resolution indicated that the officer was spoken to/advised by his superior.

There were no cases in the present year where a complainant resolved a case informally due to the absence of any independent evidence. In 1983, there was one case where lack of independent evidence was noted as the reason for the informal resolution of a complaint, while in 1982 there was a considerably higher number of cases (12) in this category. It was generally agreed through discussions with the Bureau that the lack of independent evidence was not, of itself, a sufficient reason to resolve the complaint informally. It is not the function of the investigator to draw such conclusions. This is an adjudicative function which must be performed by the Deputy Chief after a review of the complete investigation. As a result of these discussions, informal resolutions arising from lack of independent evidence have been entirely eliminated.

Finally, there were 14 cases (9.8%) where the reason for agreement to an informal resolution could not be determined. The complainant may have been satisfied to bring the matter to the attention of the police force. Conversely, it is possible that the complainant was simply not interested in pursuing the matter through the formal stages and, therefore, was satisfied with an informal resolution.

4. Withdrawals

80 or 12.4% of the complaints were withdrawn by the complainant.

An analysis of the withdrawals indicates that 47.5% of these complaints were filed at a police station, 28.7% with the Office of the Public Complaints Commissioner, and 17.5% at the Bureau. The remaining 6.3% of these complaints were filed either with the Deputy Chief or the Board of Commissioners of Police.

22.5% of the withdrawals were attributed to an admission of error on the part of the complainant. This was usually explained by the complainant having been intoxicated at the time of the incident so that a clear recollection of the events was impossible. In another 36.3% of the cases, the reasons for withdrawal were not known. 8.7% of the complainants who withdrew their complaint stated their desire to merely call attention to the incident or put it on the record rather than follow through with an investigation, while another 12.5% withdrew their complaints stating all their concerns or allegations had been dealt with in court. The remaining cases (20.0%) were withdrawn for miscellaneous reasons.

32.5% of the complainants who withdrew their complaints had retained lawyers. It is known that the withdrawal of some complaints was connected to the plea bargaining process. Although some such cases have come to the P.C.C.'s attention, the actual frequency of this occurrence cannot be ascertained by statistics, since this information is not available.

5. Dispositions by the Police for Officers Involved in Complaints

17.6% of the police officers involved in complaints entered into informal resolutions. The majority of the officers (82.4%) were subject to a complete investigation followed by a decision of the Deputy Chief (formal resolution).

There was a finding of "no action warranted" for 77.8% of the officers. The reasons for the Deputy Chief not taking action are set out in Table 20. 3.1% of the officers were either spoken to, advised, counselled and/or cautioned by their superiors as a result of the complaint, while another 0.7% were charged under the *Police Act* in the present sample of closed cases. These data may be found in Table 21.

TABLE 21

DISPOSITIONS BY THE POLICE FOR OFFICERS INVOLVED IN COMPLAINTS

	1984	
	No.	%
FORMAL RESOLUTION		
NO ACTION WARRANTED	836	77.8
OFFICER COUNSELLED AND/OR CAUTIONED	33	3.1
OFFICER REFERRED TO BOARD	8	0.7
POLICE ACT CHARGES	7	0.7
OFFICER ADVISED/SPOKEN TO	1	0.1
TOTAL FORMAL RESOLUTIONS	885	82.4
INFORMAL RESOLUTION		
INFORMAL RESOLUTION	184	17.1
INFORMAL RESOLUTION & OFFICER ADVISED/SPOKEN TO	2	0.2
INFORMAL RESOLUTION & OFFICER COUNSELLED AND/OR CAUTIONED	3	0.3
TOTAL INFORMAL RESOLUTIONS	189	17.6
TOTAL DISPOSITIONS FOR POLICE OFFICERS	1074	100.0

F. REVIEWS COMPLETED BY THE PUBLIC COMPLAINTS COMMISSIONER

There were 80 reviews completed* in 1984, comprising 12.4% of all the closed complaints. This represents an increase of 11 reviews over the previous year, when 69 reviews were completed.

The Commissioner decided that no further action was warranted in 60, or 75.0% of those cases in which reviews were completed. 8, or 10.0% of the cases were withdrawn. Of the 60 cases in which no further action was warranted, the Commissioner agreed completely with the Chief's decision in 52, or 65.0% of these cases and agreed in part with the Chief's decision in 8, or 10.0% of the cases. In another 6 or 7.5% of the reviews, the Commissioner substantially agreed with the complainant but did not feel that it was in the public interest to order a Police Complaint's Board Hearing. These data may be found in Table 22.

In all cases in which a Police Complaint Board hearing was not ordered, a review report was written by the Commissioner. An example of a review report may be found in Part I.

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* A "completed review" means a review of a case that was closed in the reporting year. Where the P.C.C. reviews a case and orders a Board hearing, the case is not closed until the hearing has ended. Therefore, in this reporting year, for example, there were 5 reviews where the P.C.C. ordered a Board hearing that was pending at the year-end. Accordingly, these 5 cases are not part of the 80 cases referred to above.

G. BOARD HEARINGS ORDERED BY PUBLIC COMPLAINTS COMMISSIONER

In six or 7.5% of the review cases, the Commissioner ordered a Police Complaint's Board Hearing, the hearing was held, and a decision was reached. All hearings consisted of three-person board hearings. These data may be found in Table 22.

Excluding those cases which were withdrawn, there were 72 cases which could ultimately have led to Police Complaint Board Hearings. The number of Board Hearings that were ordered (6) as a function of the number of cases that could have led to such hearings (72) was just under 9% (8.3%). Thus, Board Hearings were ordered by the Commissioner in roughly one out of every twelve cases in which the complainant requested a review (excluding withdrawals and informal resolutions).

16 Board hearings were in the system during the present year. 12 were ordered by the Public Complaints Commissioner following reviews, while 4 were ordered by the Deputy Chief. Of the 16 hearings, 2 resulted in withdrawals of the complaints, while 6 are still pending. The remaining 8 hearings completed in this reporting year resulted in 4 police officers being found guilty of misconduct. 6 of these hearings were ordered by the Public Complaints Commissioner (Table 22); 2 were ordered by the Deputy Chief (Table 20A). The Board imposed disciplinary penalties which ranged from forfeiture of 3 days off to a 14 day suspension without pay. (See Part IV for further details).

TABLE 22

OUTCOME OF REVIEW OF COMPLAINT BY PUBLIC COMPLAINTS COMMISSIONER

	1983		1984	
	No.	%	No.	%
NO ACTION WARRANTED	44	63.8	60	75.0
CASE WITHDRAWN	8	11.6	8	10.0
INFORMAL RESOLUTION	7	10.1	0	0.0
NOT IN PUBLIC INTEREST TO CONVENE BOARD HEARING	5	7.3	6	7.5
THREE PERSON BOARD*	4	5.8	6	7.5
ONE PERSON BOARD	1	1.4	0	0.0
TOTAL CASES	69	100.0	80	100.0

*NOTE: These six cases led to seven hearings being ordered by the P.C.C. In addition, the Deputy Chief of Police ordered three hearings which were closed in this reporting year. For a discussion of Board hearings, see Part IV.

H. LENGTH OF TIME BETWEEN VARIOUS STAGES IN THE COMPLAINTS PROCESS

1. Time from Date Complaint Filed to Date Copy Received by P.C.C.

The number of days from the date a complaint was filed at the Bureau or a police station to the date the P.C.C. received a copy of the complaint was recorded. In 33.2% of the cases a copy of the complaint was received at the P.C.C. Office on the same day it was filed. Another 27.7% were received within one or two days of filing, while 22.5% were received within three or four days. In total, copies of the vast majority of complaint forms (97.1%) were received within one week of filing. The average number of days from the date of filing to the date a copy of the complaint was received at the P.C.C. Office was 2.6 days. The full list of days may be found in Table 23.

2. Time from Complaint Filing to Interim Report

An interim report on the investigation of each complaint must be completed by the Public Complaints Investigation Bureau of the Police Force, and forwarded to the complainant, the subject officer, and the P.C.C. within 30 days of the Bureau's receipt of the complaint. In a number of cases, the entire investigation was completed within the 30-day period. No interim report was required since the final report served the same purpose. For those cases in which an interim report was completed (494), the average number of days from the date a complaint was filed to the date of the interim report was

TABLE 23

TIME FROM DATE COMPLAINT FILED TO DATE COPY RECEIVED BY P.C.C.

	No.	%
SAME DAY	210	33.2
1-2 DAYS	175	27.7
3-4 DAYS	142	22.5
5-7 DAYS	87	13.7
8-13 DAYS	11	1.7
20-40 DAYS	6	1.0
46 DAYS	1	0.2
TOTAL CASES	632	100.0

$\overline{X}$ DAYS = 2.6

32.9 days.* Thus, the processing of a complaint by the police with respect to the completion of an interim report was generally very close to the prescribed period. These data may be found in Table 24.

In only 19 or 3.9% of the cases were there significant delays between the filing of a complaint and the filing of the first interim report by the Bureau. The cases that exceeded the 30 day period were cases where the complaint originated outside the Bureau and time was spent in transmitting the complaint form.

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* It should be noted that several days may pass from the date a complaint is filed to the date the Bureau actually receives the complaint file, since most complaints are not filed at the Bureau. Thus, time from the Bureau's receipt of a file to the P.C.C.'s receipt of an interim report would most likely be less than the above figure -- very close to 30 days.

TABLE 24

TIME FROM COMPLAINT FILING TO INTERIM REPORT

	No.	%
10-24 DAYS	4	0.8
25-30 DAYS	85	17.2
31-40 DAYS	386	78.1
41-61 DAYS	19	3.9
TOTAL CASES	494	100.0

$\overline{X}$ DAYS = 32.9

NOTE: It should be noted that while only 18% of the cases had their interim report completed within 30 days, over three-quarters (77.1%) had their reports completed within 34 days.

3. Time from Complaint Filing to Final Report and Chief's Decision

The total number of days from the date a complaint was filed to the date of the final report* concerning the outcome of that complaint was also recorded. In 0.1% of the cases, the final report was completed on the same day as the day the complaint was filed. This occurred in a case where an informal resolution was achieved immediately at the time the complaint was filed. In 18.8% of the cases, a final report was completed within 30 days of the date of filing. 41.4% of the cases were completed with a final report produced within 60 days of filing. In roughly two-thirds of the cases (63.6%) a final report was completed within 90 days of filing. The average number of days from the date a complaint was filed to the date a final report was completed was 84.4 days. These data may be found in Table 25.

The number of days from the final report to the date of the Chief's decision averaged 39.5 days. In 12.1% of the cases, the Chief's decision came one week after the final report. In slightly less than one-half of the cases (46.9%) the Chief's decision was formulated within 30 days of the final report. These data may be found in Table 26.

The total number of days from the above-noted two periods -- from the date the complaint was filed to the date of the Chief's decision, averaged 144.3 days.

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* "Final report" in this section refers to either a final investigative report by the Bureau or the Record of Informal Resolution.

TABLE 25

TIME FROM COMPLAINT FILING TO FINAL REPORT

	No.	%
SAME DAY	1	0.1
1-14 DAYS	36	5.6
15-30 DAYS	84	13.1
31-60 DAYS	145	22.6
61-90 DAYS	143	22.2
91-235 DAYS	220	34.2
236-393 DAYS	14	2.2
TOTAL CASES	643	100.0

$\overline{X}$ DAYS = 84.4

TABLE 26

TIME FROM FINAL REPORT TO CHIEF'S DECISION

	No.	%
1-7 DAYS	51	12.1
8-21 DAYS	102	24.3
22-30 DAYS	44	10.5
31-60 DAYS	114	27.2
61-90 DAYS	85	20.2
OVER 90 DAYS	24	5.7
TOTAL CASES	420	100.0

$\overline{X}$ DAYS = 39.5

4. Time from Chief's Decision to Request for Review

Any complainant has the right to request a review of the Chief's decision by the P.C.C. The average number of days from the date of the Chief's decision to the date of a request for review was 34.9 days. The number of days ranged from 3 days in one case to a maximum of 260 days in another case. In two-thirds of the cases (66.3%), requests for review were made within 30 days of the Chief's decision. These data may be found in Table 27.

5. Time from Request for Review to Decision by Public Complaints Commissioner

The time involved from the date of a complainant's request for review to the date of the decision by the Public Complaints Commissioner averaged 178.4 days. 8.8% of the cases were completed within two months of the request for review while another 43.7% were completed within five months of the request. The remaining 47.5% of the cases required more than five months to complete. These data may be found in Table 28.

During the review process, contact with both the complainant and the subject officer is generally maintained, but it is clear that the average length of time required to complete a review must be reduced. Unfortunately, several delaying factors which were mentioned in our last report will always be present in the review process. These factors include the necessity of monitoring ongoing or pending trials in which relevant evidence might be uncovered, the awaiting of transcripts of trials, unavailable witnesses, and the need for analysis of forensic evidence and research into legal issues. In addition, the number of requests for review

TABLE 27

TIME FROM CHIEF'S DECISION TO REQUEST FOR REVIEW

	No.	%
3-7 DAYS	11	13.8
8-14 DAYS	18	22.5
15-30 DAYS	24	30.0
31-60 DAYS	18	22.5
61-90 DAYS	3	3.7
OVER 90 DAYS	6	7.5
TOTAL CASES	80	100.0

$\overline{X}$ DAYS = 34.9

TABLE 28

TIME FROM REQUEST FOR REVIEW TO P.C.C. DECISION

	No.	%
20-25 DAYS	2	2.5
31-60 DAYS	5	6.3
61-90 DAYS	17	21.2
91-120 DAYS	10	12.5
121-150 DAYS	8	10.0
151-180 DAYS	5	6.3
181-210 DAYS	8	10.0
OVER 210 DAYS	25	31.2
TOTAL CASES	80	100.0

$\overline{X}$ DAYS = 178.4

has more than doubled during the three years of the pilot project, from 45 in year one to 98 in year three.

It should also be remembered that during the pilot project phase, it was of paramount importance to become established and to build our expertise in this very complex area. Accordingly, great emphasis was placed on accuracy and completeness. Virtually no conveivable investigative step was omitted and thus, investigative reports were lengthy, detailed and exhaustive. It was believed that this approach was necessary for other reasons as well. Both the complainant and the subject officer receive copies of the review report and if the report is comprehensive and complete, both will understand and appreciate the nature of the process and be assured that the process was thorough and fair. In addition, a copy of the review report is sent to the Bureau and to the Chief, pursuant to the legislation, and with the consent of the subject officer, a copy is also sent to the Police Association. It is believed that the cumulative effect of receiving these review reports with their exhaustive analysis of all the issues has had a beneficial educative impact on the parties concerned.

However, now that an acceptable level of expertise and credibility has been built up over the three year pilot period, speed of output has become much more of a priority.

Accordingly, since January 1985, two new steps have been taken to achieve this goal. First, in a concerted effort to process cases through the system more quickly wihout sacrificing the quality of a review, several changes were made in the review process itself. These changes involve identifying those cases at the outset which have no complex legal issues, outstanding legal proceedings or other elements necessitating delay, so that their processing may be expedited through the system. These cases are now handled with less written, but more personal contact with the parties. Consequently, less time is expended in writing lengthy and complex review reports.

Secondly, improvements can be made in the administration of the case load including a new system of tracking open cases by computer. At the present time the system design is completed, the hardware is in place, and a suitable program is being developed. When the system is fully operational (mid 1985), it will enable the Director of Investigations to ensure that review cases are moving through the system in an orderly fashion and that any problems or delays may be immediately identified and dealt with. This will no doubt lead to greater efficiency and speed in responding to complainants' requests for reviews.

I. OTHER CONTACTS WITH THE P.C.C.

During this year, in addition to the formal complaints lodged, there were an additional 631 recorded contacts made with the P.C.C. office by 493 people, concerning inquiries which, although they did not develop into complaints, took a substantial amount of time to resolve.

Of these 631 contacts, 77.7% were made by telephone, 12.7% were made by letter, while 9.6% appeared in person. It is estimated that each of these initial inquiries required approximately 30 minutes of an investigator's time to resolve in addition to any subsequent time spent on follow-up.

Of the 493 people who made enquiries to the P.C.C. office during this period, 76 or 15.4% were referred in various ways, including referrals from government agencies, lawyers, or aldermen.

In 83.8% of these contacts, people inquired about specific incidents and wished to know whether or not they had a complaint within the P.C.C.'s jurisdiction. 3.2% of the contacts were requests for information about either the P.C.C. or the procedures set out in the legislation. 6.3% made general complaints regarding the police or the justice system; 2.6% requested information about non-police matters while 4.1% requested general information about the police, without having a specific complaint. The majority of these contacts involved some form of follow-up activity by the P.C.C. 205 additional telephone calls were made by investigators to aid in the resolution of these inquiries. 81 letters were written for the same purpose and 76 interviews were conducted. In 49 cases a subsequent follow-up appointment was made. In

15 of these cases the person inquiring attended the follow-up interview, while in 34 cases they did not.

80 or 12.7% of the contacts were made by people who wanted to lodge a complaint about a police officer on a police force other than the Metro Toronto Police. These complaints were not within the P.C.C.'s jurisdiction and were referred to the proper agencies.

In addition, various people were referred to the Metropolitan Toronto Police Force, the Law Society, municipal police authorities, Chiefs of Police in other jurisdictions, the Attorney General, the Ombudsman, the Ministry of Consumer & Commercial Relations, the Ministry of Labour and various Alderpersons.

During the present year, the P.C.C. dealt with approximately 1400 telephone enquiries that were directed to other agencies.

PART IV - POLICE COMPLAINTS BOARD

A. INTRODUCTION

A common misconception is that the Police Complaints Board is a criminal court, with the power to impose criminal sanctions such as incarceration. This is not the case. The Board is a disciplinary body and the sanctions it can impose are labour relations sanctions. These sanctions apply solely to the police officer's status within the police force.

Police Complaints Board hearings are similar to other administrative or quasi-judicial proceedings. The Statutory Powers Procedure Act and the rules of natural justice apply and all hearings are open to the public.

Although there are similarities in procedure to other administrative tribunals, hearings under the Act are also unique in many ways. Since these hearings constitute the first time a civilian tribunal has been asked to adjudicate issues of police misconduct, the tribunal is sometimes presented with questions of law and procedure for which there are no precedents. One example is a case in which the subject officer resigned from the force before a Board hearing. Arguments were offered as to whether the Board should continue with the scheduled hearing. The Board in that case decided to continue, and the case is currently proceeding. The decision will be reported in the next Annual Report.

On another occasion, the complainant requested that the Board view the area of a police station that was relevant to his allegations of misconduct. The Board decided to take a view of the area, and did so with the cooperation of the officer in charge of the station.

On yet another occasion, the complainants were serving a sentence in a correctional institution in Guelph at the time of the hearing. After considering the convenience of all parties to the complaint, the Board decided to hold the first day of the hearing in the correctional institution. The decision in this hearing will also be reported in next year's Annual Report.

Eleven Board hearings were ordered between December 21, 1983 and December 20, 1984. Seven of these were ordered by the Public Complaints Commissioner and four were ordered by a Deputy Chief of Police. Six of these eleven hearings, all of which were before 3-person panels, were completed within the reporting year. In addition, two other hearings, ordered in the previous year, were completed in this reporting year.

In the eight hearings completed in this reporting year, four police officers were found guilty of misconduct. Disciplinary penalties imposed by the Board ranged from forfeiture of 3 days off to a 14 day suspension without pay.

B. BOARD DECISIONS

The following is a summary of the eight Board decisions.

1. Re Nicholls and Bobb - February 24, 1984. (Panel: Barrett, Hong, Singh)

The complainant alleged an unlawful search.

The officer had obtained a search warrant under the Narcotic Control Act to search an apartment. The tenant of the apartment was a friend of the complainant. The officer and two other officers entered and searched the apartment, and found some marijuana on a visitor in the apartment.

The complainant happened to come to visit the tenant approximately 15 minutes after the search had been commenced. He was unaware that a search was in progress when he knocked at the door. The tenant opened the door, and the officer pushed her out of the way and stepped out into the hallway to speak to the complainant. The complainant stated that the officer immediately started asking him his name and demanding to know what he was doing there, and simultaneously put his hands in the complainant's front jacket pockets.

The officer stated that he first identified himself as a police officer by showing the complainant his badge and told him that he was in the process of executing a search warrant. The officer stated that the complainant refused to give his name and protested that he knew his rights and he did not have to answer questions and that the officer was not entitled to search him. The officer agreed that he "patted down" the two front pockets of the complainant's jacket because he was suspicious when the complainant refused to identify himself and backed away.

After the search, the complainant was arrested for causing a disturbance by shouting and he was eventually found guilty of this offence. No marijuana was found on the complainant. The entire incident took place in the hallway immediately outside the apartment.

It was agreed by the officer that a search had taken place, and therefore the Board had only to consider whether a search conducted before an arrest was lawful in these circumstances.

Due to the wording of the Narcotic Control Act, the first question was whether the hallway outside the apartment could be considered a dwelling house. After reviewing the case law, the Board concluded that the hallway was part of the dwelling house. The next question was whether, according to the Narcotic Control Act, the officer needed to assess each individual found within a dwelling house in these circumstances as to whether there were reasonable and probable grounds for a search. Due to the wording of the Narcotic Control Act, the Board concluded that reasonable and probable grounds were not needed in each individual case.

The next consideration was whether the prohibition in the Charter of Rights against unreasonable search was applicable. The Board concluded that the search was unreasonable, from the complainant's point of view. The complainant had simply knocked on the door to visit a friend, not suspecting what was going on inside the apartment. Within a minute of the police officer confronting him with questions, he had been searched, although all the time resisting the search and the questions.

However, the Board also stated that the search may well have appeared reasonable to the officer. He had just conducted a search in which he had found marijuana. He stated that he would not necessarily have searched the complainant unless he were suspicious for some reason. In this case, the officer stated that the grounds for his suspicion were that the complainant was not cooperative, would not supply his name, kept asserting his legal rights and started backing away.

The Board found that the search would not have given rise to the exclusion of evidence remedy under section 24(2) of the Charter of Rights and concluded that the officer was not guilty of misconduct.

2. Re Kellock and Anderson - June 18, 1984.
(Panel: Barrett, Jorgensen, Crothers)

Complainant alleged an assault by a police officer.

The complainant and a friend were attending the Canadian National Exhibition. They had paid for admission to the Exhibition, but were turned away at a pavilion where alcohol was being served because one of the young men did not have proof that he was of the legal drinking age. The two men then decided to go back to their car, get the identification and return. In the car park, they determined that they would probably not be allowed back into the grounds without paying another admission, and they decided to jump the fence to gain entry to the grounds. They did so, and were noticed by the officer who was on routine foot patrol. The officer started pursuing them. One of the young men ran off at an angle and got away, but the officer caught up with the complainant.

The complainant alleged that he turned to face the officer to give himself up, but the officer started swinging at him repeatedly with his baton. The complainant stated that he was struck approximately three times, pushed onto a car, struck again with a baton and a fist, and thrown to the ground after he was handcuffed, at which time someone put a knee or foot on his back to restrain him on the ground.

The officer stated that, when he caught up with the complainant who had jumped the fence, the complainant tripped and fell. As the complainant was rising from the ground, he noted that his elbows and forearms were scraped. The officer stated that he then approached the complainant and told him to stop, whereupon the complainant swore at him and struck at him with his fist. The officer testified that he then took out his baton and began to twirl it in front of his body with a very rapid back and forth motion. He stated that he accidentally struck the complainant on his forearm, whereupon the complainant took another swing with his fist, attempting to strike at the officer's chest right in the path of the twirling baton. This time the officer intentionally struck the complainant with the baton on his left side. The complainant again attempted to strike the officer, and the officer struck him again on the upper left arm. The officer testified that the complainant was continuously struggling and yelling obscenities. The officer stated that he placed the complainant over the hood of a car, handcuffed him, and then placed him on the ground. He also stated that he may have put his foot on the complainant's back when he was on the ground. The officer called for help, and was joined by other officers with a paddy wagon.

Several civilians witnessed the incident. Their evidence contained some inconsistencies, but the Board noted that some inconsistency in details amongst several of the observers to a single event is consistent with human nature and with individual differences in memory, power of observation and acuity. All the witnesses had been excluded during the hearing so none were able to hear what the others had said prior to giving their evidence. However all witnesses described the complainant as taking a defensive posture only and no aggressive action. All of his struggling was defensive and he was shouting for help from the spectators almost continuously. All of the witnesses also described an up and down striking motion with the baton. None corroborated the subject officer's description of a twirling motion with the baton followed by a horizontal striking from the shoulder.

The Board found the complainant to be a credible witness and that the essential points of his evidence were corroborated by independent civilian witnesses. The Board did not believe the officer's assertion that the complainant had struck him three times. This version was not corroborated by independent witnesses and was characterized by the Board as highly improbable.

The officer was found guilty of misconduct, and five days forfeiture of pay was imposed as a penalty.

3. Re Evans, Packer, Wills, Madeley and Footman - August 24, 1984. (Panel: O'Connor, Westaway, and McLennon)

The complainant alleged assault against three officers, in the course of an arrest. The complainant further alleged that two officers were uncivil in their language at the time of arrest and that an investigating officer did not inform him of his right to counsel before questioning him.

In regard to not advising of the right to counsel, the Board heard uncontradicted evidence that the complainant was informed of his right to counsel by another officer, prior to his involvement with the subject officer. Accordingly, the complaint was dismissed.

With respect to the incivility complaint, the Board found that police officers were repeatedly uncivil to civilians who had legitimate concerns about police actions at the scene. However, there was insufficient evidence of identification to establish which officers were involved, and the complaint was dismissed.

In regard to the assault allegations, the complainant alleged that he was beaten severely by the two officers who arrested him initially and also assaulted by a third officer who later arrived at the scene. The complainant testified that he received a large number of blows to different parts of his body but medical evidence was inconsistent with this allegation. The complainant testified that the third officer assaulted him when he was already restrained by the two arresting officers.

The Board found that the third officer struck the complainant two or three times while he was so restrained on the ground. This officer was found guilty of misconduct and the Board imposed a disciplinary penalty of 12 days' forfeiture of pay. The assault allegation against the other two officers was dismissed.

4. Re Achilleous, Milnes and Stanwick - August 29, 1984. (Panel: O'Connor, Popowich, Jorgensen)

Complainant had made an allegation of assault against two officers. The case had come before the Board in March, but had been adjourned pending the end of the criminal trial of charges laid at the time of the complaint incident. Upon the reconvening of the complaint hearing, an application was made by counsel for the officers for the Board to dismiss the complaint. The application to dismiss was made on the basis that a plea bargain had been reached in the criminal charges. The plea bargain involved an Assistant Crown Attorney, the complainant, (the accused in the criminal matter) the complainant's counsel and counsel for the officers retained in respect of the complaint. Under the plea bargain, the Crown withdrew a charge of refusal to take a breathalyzer test and a charge of assaulting a police officer. The complainant pleaded guilty to an impaired driving charge and agreed to discontinue both a civil suit commenced against the police officers and the complaint.

In accordance with the plea bargain, the complainant requested that the complaint before the Board be withdrawn.

The Board first considered the general question; whether a plea bargain involving the dropping of a complaint should terminate that complaint. The Board concluded that as a general principle, the complaint should not be terminated simply because the complainant wishes to withdraw it. The overall scheme of the Act contemplates more than the mere resolution of a dispute between two individuals, the complainant and the police officer. The public has an interest in the conduct of police officers and matters relating to their discipline. Once a complaint is made, public monies are expended to enquire into and investigate the complaint, and a public official is required to decide whether, in the public interest, a hearing is required. The process also ensures that a complainant who might be accused of an offence and subject to criminal prosecution has a forum free from undue pressure in which to pursue his or her complaint. It is in the public interest to treat proceedings before the Police Complaints Board as entirely separate matters from any criminal charges arising from the same incident.

In the circumstances of this case, however, a plea bargain had been made in good faith albeit on an incorrect assumption. Under the circumstances, and especially because this unique issue was raised for the first time, the Board found that it would be inappropriate to proceed with the hearing. Accordingly, the complaint was dismissed.

5. Re Brown and Smith - November 9, 1984.
   (Panel: Sharma, Clements, Cole)

The complainant alleged assault in the course of an arrest.

Complainant and some friends were out to play basketball. When passing a dairy, the friends reached into a truck and removed some containers of milk and yogurt. The complainant put the containers in a bag which contained his gym clothes. The young men saw a police car approaching and began to run. The complainant was pursued for some time before he was caught by two police officers. The complainant alleged that an officer struck him in the groin before placing him in the police car.

The officer denied striking the complainant, and the officer in charge of the station to which the complainant was brought testified that no complaint had been made about an assault.

There were discrepancies in the evidence about the positions of the police vehicles involved, about whether or not persons apprehended were handcuffed and about whether any blow was struck. The only independent witness could not recall seeing the complainant being assaulted.

The Board concluded that the complaint had not been established beyond a reasonable doubt and dismissed the complaint.

6. Re Simms and Herrell - November 20, 1984. (Panel: Grosman, Popowich, Levy)

Complaint against officer was dismissed by the Board when the complainant refused to appear to give evidence at the hearing.

The Board commented that the complainant's refusal to attend abused a resource made available to the public. The Board deplored the effect of this action, in placing a police officer under suspicion only to abandon the complaint at the last moment without notice.

As a result of this case, a policy change was made and since that time all complainants have been issued summonses to attend Board hearings.

7. Re Brody, Smollett, and Nguyen - November 22, 1984. (Panel: Makuch, Clements, Nusca)

Complainant alleged assault at a police station.

Complainant was arrested at a demonstration. He alleged that, after being brought to a police station, he was hit by one officer on the chest, back and shoulders, and was pushed into a wall. The complainant also alleged that he was struck in the face by a second officer. Medical evidence and photographs confirmed injuries consistent with the complainant's allegations.

The officers denied striking the complainant as alleged. They attributed any injuries to the complainant having been tackled in order to effect an arrest.

According to standard procedure, the complainant had been questioned and examined in a way that would reveal injuries upon being taken to the police station. Both subject officers and the Sergeants in charge at the station testified that they saw no injuries when the complainant arrived at the station.

The Board concluded on the evidence that the injuries were not caused in the course of the arrest. The Board also accepted that there were no visible injuries at the time the complainant was received at the police station. However, there was clear evidence of visible injuries when the complainant left the police station. Accordingly, the officers were found guilty of misconduct.

One officer was suspended without pay for 14 days and the other officer was ordered to forfeit three days off.

8. Re Davies, Pawlowski, Jolly and Footman - December 14. (Panel: Makuch, Rumball, Santos)

Complaint that officers did not forward names of witnesses to complainant despite request to do so.

Witnesses to an arrest requested an officer at the scene to forward their names to the arrested person, who was assaulted by a police officer (the police officer was subsequently found guilty of the assault and forfeited 12 days' pay). One of the witnesses also telephoned the police station and asked a Sergeant to forward their names to the arrested person. The Sergeant discussed the matter with his Staff Sergeant and they decided not to forward the names, nor did the officer at the scene.

The issue before the Board was whether the failure to forward names in these circumstances amounted to misconduct. The Board stated that the conduct of the officers should be judged against a standard of reasonableness as opposed to any standard of an absolute duty to forward names of witnesses. The Board considered that in this case there was no reason to fear for the safety of the witnesses or the victim as can be the situation in disclosing Crown evidence in a criminal case. There was also no concern about prejudicing the presentation of Crown evidence or of breach of confidentiality. The Board also pointed out that there was no particular difficulty in passing on the names of the witnesses.

The Board also noted, however, that while the police force has standing orders in respect of non-disclosure of Crown evidence, it has not developed a rule respecting disclosure or facilitating the provision of information to potential complainants. The officers had also had no actual warning or knowledge that their conduct in this matter could be viewed as misconduct.

In conclusion, the Board noted that officers must act reasonably, taking into account such matters as the burden on them in complying, the importance of passing on the information, alternative measures of having information passed on, the need to protect witnesses, and the existence of administrative or internal rules or orders. The Board urged the Chief of Police to consider new orders or procedures to deal with this issue. Although the Board found that the conduct of the officers should be viewed as misconduct because they did not act reasonably, there was a need for a warning that such actions would be regarded as misconduct. Therefore no finding of misconduct was made and the complaint was dismissed.

C. RESULT OF APPEAL

In the Second Annual Report, it was noted that the decision of the Board in Re Noble and McKay was being appealed to the Supreme Court of Ontario. The officer appealed the finding of misconduct, and the complainant appealed the penalty, which was a 14 day suspension without pay.

On April 29, 1985, the appeals were heard. The Supreme Court dismissed both appeals, confirming the original decision of the Police Complaints Board.

APPENDIX

Bill 140

4TH SESSION, 32ND LEGISLATURE, ONTARIO 33 ELIZABETH II, 1984

Bill 140

(Chapter 63
Statutes of Ontario, 1984)

An Act to revise the Metropolitan Police Force Complaints Project Act, 1981

The Hon. R. McMurtry
Attorney General

1st Reading	November 13th, 1984
2nd Reading	December 7th, 1984
3rd Reading	December 14th, 1984
Royal Assent	December 14th, 1984

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Bill 140 **1984**

An Act to revise the Metropolitan Police Force Complaints Project Act, 1981

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Interpretation

1. In this Act,

(a) "Bureau" means the Public Complaints Investigation Bureau;

(b) "chief of police" means the chief of police of the Metropolitan Police Force;

(c) "Commissioner" means the Public Complaints Commissioner appointed under this Act;

(d) "complainant" means a member of the public who makes a complaint in accordance with the provisions of this Act;

(e) "complaint" means an allegation or allegations, made orally or in writing, by a member of the public, concerning the misconduct of a police officer;

(f) "inquiry" means an allegation or allegations concerning conduct of a police officer that does not amount to "misconduct";

(g) "misconduct" means an act or omission on the part of a police officer that constitutes an offence under the Code of Offences set out in the Schedule to Regulation 791 of the Revised Regulations of Ontario, 1980, made under the *Police Act*;

R.S.O. 1980, c. 381

(h) "officer in charge" means the police officer who at any particular time, while on duty, is in charge of and responsible for, the proper functioning of a police facility;

(i) "police officer" means a police officer on the Metropolitan Police Force;

(j) "prescribed" means prescribed by the regulations;

(k) "regulations" means the regulations made under this Act;

(l) "subject officer" means a police officer who is the subject of a complaint.

Application of Act

R.S.O. 1980, c. 381

2. This Act applies to complaints and inquiries made by members of the public respecting the conduct of police officers on the Metropolitan Police Force and hearings under this Act and disciplinary proceedings under the *Police Act* and the regulations thereunder arising out of such complaints.

Appointment of Public Complaints Commissioner

3.—(1) The Lieutenant Governor in Council shall appoint a Public Complaints Commissioner, to hold office for a term not exceeding five years, to exercise the powers and perform the duties assigned to him by this Act and the regulations.

Re-appointment

(2) The Commissioner may be reappointed for a further term or terms not exceeding, in each instance, five years.

Officers, etc.

R.S.O. 1980, c. 418

(3) Such officers and employees as are considered necessary from time to time for the purposes of this Act may be appointed under the *Public Service Act*.

Remuneration

(4) The Commissioner shall be paid such remuneration and allowance for expenses as may be fixed by the Lieutenant Governor in Council.

Records

(5) The Commissioner shall maintain copies of all records, reports and other materials received by him under this Act.

Monitoring handling of complaints and inquiries

(6) The Commissioner shall monitor the handling of complaints and inquiries by the Bureau and the chief of police.

Annual report

(7) The Commissioner shall report annually on the affairs of his office to the Solicitor General and to the Attorney General and the Attorney General shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

Summary of decisions

(8) The Commissioner shall cause to be prepared and published periodically a summary of the decisions, and the reasons therefor, made by the boards of inquiry under this Act.

(9) The accounts of the Commissioner shall be audited annually by the Provincial Auditor. Audit

4.—(1) The Lieutenant Governor in Council shall appoint a panel of persons to act as members of boards of inquiry. Panel for boards of inquiry

(2) One-third of the members of the panel shall be persons who are members of the Law Society of Upper Canada who are jointly recommended for appointment by the Attorney General and the Solicitor General. Recommendations for appointment

(3) One-third of the members of the panel shall be persons, other than police officers, the appointment of whom the Metropolitan Board of Commissioners of Police and the Metropolitan Toronto Police Association have jointly recommended in writing to the Attorney General. Idem

(4) One-third of the members of the panel shall be persons recommended by the council of The Municipality of Metropolitan Toronto to the Attorney General for appointment. Idem

(5) Appointments to the panel shall be for a term of two years and a person who is appointed may be reappointed for a further term or terms not exceeding, in each instance, two years. Term

(6) Recommendations made under subsections (3) and (4) shall be submitted to the Attorney General within such time as he may specify. Idem

(7) Notwithstanding subsection 34 (1), the members of the Police Complaints Board, except the chairman, constituted under the *Metropolitan Police Force Complaints Project Act, 1981* shall act as members of boards of inquiry under this Act until such time as the panel referred to in subsection (1) is appointed and members of the Police Complaints Board appointed from the groups set out in subsections 4 (4), (5) and (6), respectively, of the *Metropolitan Police Force Complaints Project Act, 1981* shall be deemed to be recommended under subsections (2), (3) and (4) of this section, respectively. Members of Police Complaints Board under 1981, c. 43 1981, c. 43

(8) The members of the panel shall be paid such remuneration and expenses as may be fixed by the Lieutenant Governor in Council. Remuneration

5.—(1) The chief of police shall establish and maintain for the purposes of this Act a branch of the Metropolitan Police Force to be known as the Public Complaints Investigation Bureau. Establishment of Bureau

Staff

(2) The chief of police shall ensure that the Bureau is supplied with sufficient staff to effectively receive, record and investigate complaints and inquiries.

Where complaints may be made

6.—(1) A member of the public may make a complaint at the Bureau, at any police station in Metropolitan Toronto or at the office of the Commissioner.

Information

(2) The person who receives the complaint shall record the complaint in the prescribed form and shall furnish the complainant with a prescribed statement that sets out the procedures that will be followed respecting the complaint and the rights under this Act of the complainant, together with a copy of the complaint.

Preliminary investigation

(3) Where a complaint is recorded at a police station, the officer in charge of the station shall take all reasonable steps to ensure that all available evidence is gathered that may be lost if not secured immediately and, if appropriate, ensure that such other preliminary investigation as may be warranted is conducted and that a report concerning such preliminary investigation is prepared and forwarded to the person in charge of the Bureau.

Copy of complaint

(4) Where a complaint is recorded at a police station, the person recording the complaint shall forward forthwith to the Bureau and to the Commissioner a copy of the complaint.

Idem

(5) Where a complaint is recorded at the Bureau, the person recording the complaint shall forward forthwith to the Commissioner a copy of the complaint.

Idem

(6) Where a complaint is recorded at the office of the Commissioner, the person recording the complaint shall forward forthwith to the Bureau a copy of the complaint.

Notification by Commissioner

7.—(1) Where a complaint is made by a person not directly affected by the incident, the Commissioner, as soon as practicable after receiving the complaint, shall in writing notify the person directly affected by the incident that a complaint has been made under this Act and advise him that he is entitled to be the complainant.

Where no action to be taken

(2) Where the person directly affected by the incident is not known or can not be found or does not, within thirty days of the date of the notification, file with the Commissioner a written request to be the complainant in the matter, no further action shall be taken under this Act in respect of such complaint.

(3) Nothing in subsection (2) shall prevent the chief of police from taking any disciplinary action that he could otherwise take under the *Police Act* and the regulations thereunder, and the chief of police shall notify the Commissioner if any such action is taken and the result thereof and either the chief of police or the Commissioner shall then notify the complainant. Action under R.S.O. 1980, c. 381

(4) For the purposes of this section a person who observes an incident shall be deemed to be a person directly affected by the incident. Person deemed directly affected

8.—(1) Upon receipt of a complaint, the person in charge of the Bureau may, with the consent of the Commissioner, reclassify any of the separate allegations within the complaint as an inquiry, and the complainant and the subject officer shall be notified forthwith. Reclassification by Bureau chief

(2) The person in charge of the Bureau shall determine whether any investigation is required in respect of an inquiry, and if it is, cause such investigation to be conducted, respond to the complainant in writing within sixty days of receipt of the complaint and forward a copy of the response to the Commissioner forthwith. Response

(3) The person in charge of the Bureau may, during the course of an investigation under subsection (2), reclassify any of the separate allegations within the inquiry as a complaint, and the complainant, the subject officer and the Commissioner shall be notified forthwith. Reclassification during investigation

(4) No reference shall be made in the personal record of any police officer to an inquiry resolved in accordance with subsection (2). Personal record

9. The person in charge of the Bureau shall inform forthwith the subject officer of the substance of the complaint in the prescribed form, unless, in the opinion of such person, to do so might adversely affect any investigation of the complaint. Police officer to be informed

10.—(1) The person in charge of the Bureau shall consider whether a complaint can be resolved informally and, with the consent of the complainant and the subject officer, may attempt to so resolve the complaint. Informal resolution

(2) Where a complaint is resolved informally, a record shall be made of the manner in which the complaint was resolved and the complainant and the subject officer shall each signify in writing his agreement to such resolution. Record of informal resolution

Copy of record to be furnished

(3) A copy of a record made under subsection (2) shall be furnished forthwith to the Commissioner, the complainant and the subject officer.

Informal resolution

(4) A complaint may be resolved informally by the person in charge of the Bureau in accordance with the procedures in this section at any time during the course of or after an investigation.

Where complaint to continue

(5) Notwithstanding subsection (1), where the Commissioner is of the opinion that the informal resolution was obtained as a result of a misunderstanding, a threat or other improper pressure, the Commissioner may notify the person in charge of the Bureau that the complaint shall continue and give reasons therefor in writing to the person in charge of the Bureau, the subject officer, the complainant and the chief of police and in such event the complaint shall continue to be treated as a complaint under this Act.

Review of decision

R.S.O. 1980, c. 224

(6) The decision of the Commissioner under subsection (5) shall be deemed to be made in the exercise of a statutory power of decision within the meaning of the *Judicial Review Procedure Act*.

Informal resolution by Commissioner

(7) A complaint may be resolved informally by the Commissioner in accordance with the procedures in this section at any time during the course of an investigation or review by the Commissioner.

No reference in personal record of subject officer

(8) No reference shall be made in the personal record of a subject officer to a complaint resolved under this section, except where misconduct has been admitted by the subject officer.

Investigation

11.—(1) Where a complaint is not resolved informally, the person in charge of the Bureau shall cause an investigation to be made forthwith into the complaint in accordance with prescribed procedures.

Interim reports

(2) The person in charge of the Bureau shall forward to the Commissioner, the complainant and the subject officer an interim report in the prescribed form providing a summary of the investigation to date not later than thirty days after receipt of the complaint and shall forward further interim reports to the same persons on a monthly basis during the course of the investigation.

Exception

(3) Notwithstanding subsection (2), the person in charge of the Bureau may decide not to make a report to the complainant or the subject officer where, in his opinion, to do so might

adversely affect the investigation of the complaint or where there are no new matters to report, in which case the person in charge of the Bureau shall forthwith notify the Commissioner of the reasons for his decision.

Final report

(4) Where an investigation has been completed, the person in charge of the Bureau shall cause a final investigation report in the prescribed form to be prepared and shall forward a copy thereof to the Commissioner, the chief of police, the complainant and the subject officer.

Idem

(5) A final investigation report prepared under subsection (4) shall,

(a) contain a summary of the complaint and a description of the alleged misconduct by the subject officer;

(b) contain a summary of the investigation and of information obtained from the complainant, the subject officer and witnesses, if any; and

(c) contain a description and analysis of any physical evidence obtained.

Further investigation at request of Commissioner

(6) The Commissioner may, upon receipt of a final investigation report, request that the chief of police cause further investigation to be made into the complaint and the results of any such investigation shall be forwarded to the Commissioner.

Withdrawal of complaint

12.—(1) All complaints and inquiries shall be dealt with in accordance with this Act, and shall not be withdrawn except in accordance with this Act.

Notice

(2) A complainant may withdraw a complaint at any time by giving notice, in the prescribed form, to the person in charge of the Bureau, who shall forward a copy thereof to the Commissioner and the subject officer.

Where to continue as complaint

(3) Notwithstanding subsection (2), where the Commissioner is of the opinion that the complainant withdrew the complaint as a result of a misunderstanding, a threat or other improper pressure, the Commissioner may notify the person in charge of the Bureau that the complaint shall continue, and give reasons therefor, in writing, to the person in charge of the Bureau, the subject officer, the complainant and the chief of police and in such event the complaint shall continue to be treated as a complaint under this Act.

Review of decision

R.S.O. 1980, c. 224

(4) The decision of the Commissioner to cause the complaint to continue shall be deemed to be made in the exercise of a statutory power within the meaning of the *Judicial Review Procedure Act*.

Disciplinary action under R.S.O. 1980, c. 381

(5) Notwithstanding subsection (2), where a complaint has been withdrawn by a complainant, such withdrawal shall not prevent the chief of police from taking any disciplinary action that he could otherwise take under the *Police Act* and the regulations thereunder and the chief of police shall notify the Commissioner if any such action is taken and the result thereof.

Where complaint not to be dealt with

13.—(1) Where it appears to the chief of police that,

(a) a complaint is frivolous, vexatious or made in bad faith;

(b) a complaint is not within the jurisdiction of this Act; or

(c) a complaint is one that could or should be more appropriately dealt with under an Act other than this Act,

the chief of police may decide that the complaint or any part thereof not be dealt with under this Act.

Notice

(2) The chief of police shall notify the Commissioner, the complainant and the subject officer of any decision made under subsection (1).

Disciplinary action under R.S.O. 1980, c. 381

(3) Notwithstanding subsection (1), the decision of the chief of police shall not prevent the chief from taking any disciplinary action that he could otherwise take under the *Police Act* and the regulations thereunder.

Review by Commissioner

(4) The complainant may, within thirty days of receiving notification under subsection (2), request the Commissioner to review the decision made under subsection (1), in which case all the provisions of this Act relating to a review by the Commissioner apply with necessary modifications.

Extension of time

(5) Notwithstanding subsection (4), where the Commissioner is satisfied that there are reasonable grounds for granting an extension, the Commissioner may extend the time for requesting a review.

Powers and duties of chief of police

14.—(1) The chief of police shall review a final investigation report and he may order such further investigation as he considers advisable and may, unless he decides that no action is warranted,

(a) cause an information alleging the commission of an offence by the subject officer to be laid and refer the matter to the Crown attorney for prosecution;

(b) order that one or more of the allegations contained in the complaint be heard by a board of inquiry;

(c) cause disciplinary proceedings to be taken under the *Police Act* and the regulations thereunder; and

(d) after giving the subject officer ten working days to reply, either orally or in writing, to the complaint, counsel or caution the subject officer regarding his conduct,

but where the chief of police takes action under clause (b), (c) or (d), he shall not take action under any other of those clauses.

Hearing not stayed

R.S.O. 1980, c. 381

(2) Where the chief of police causes an information to be laid under clause (1) (a), such action shall not stay any disciplinary proceedings under the *Police Act* or any hearing by a board of inquiry unless the presiding officer or the board, as the case may be, is of the opinion that the hearing should be stayed until the court proceedings have been concluded.

Review by Commissioner

(3) A subject officer may within thirty days of the taking of any action under clause (1) (d), request the Commissioner to review the action, in which case all the provisions of this Act relating to a review by the Commissioner shall apply with necessary modifications.

Extension of time

(4) Notwithstanding subsection (3), where the Commissioner is satisfied that there are reasonable grounds for granting an extension, the Commissioner may extend the time for requesting a review.

Expunging from personal record

(5) Any action taken under clause (1) (d) shall be expunged from the personal record of the subject officer upon the expiration of a period of two years during which no other disciplinary action has been noted on the record.

Notice of action taken

(6) The chief of police shall give forthwith written notice of any action taken by him under subsection (1) or of his decision that no action is warranted to the Commissioner, the complainant and the subject officer and, where his decision is that no action is warranted or he has taken action under

clause (1) (d), the chief of police shall give his reasons therefor.

Designation by chief of police

(7) The chief of police may designate any police officer of the rank of inspector or higher to exercise any of his powers and perform any of his duties under this Act and the police officer so designated has the powers and duties set out in the designation and where any power is conditional on the opinion of the chief of police, the requisite opinion shall be that of the police officer so designated.

Application of s. 23

R.S.O. 1980, c. 381

15.—(1) Where the chief of police has caused disciplinary proceedings to be taken under the *Police Act* and the regulations thereunder, subsections 23 (6), (8), (13), (14) and (15) of this Act apply with necessary modifications to a hearing held in connection with such proceedings.

Notice of decision

(2) The chief of police or, if he is not the person who holds a hearing referred to in subsection (1), the person who holds the hearing shall give forthwith written notice of his decision together with his reasons therefor to the Commissioner, the complainant and the subject officer.

Police officer may appeal

16. Where a hearing referred to in subsection 15 (1) has been held and a penalty has been imposed upon a subject officer, the officer may appeal in accordance with the provisions of this Act and not as provided in the *Police Act* and the regulations thereunder.

R.S.O. 1980, c. 381

Notice of appeal

17.—(1) A notice of appeal under section 16 shall be served on the Commissioner and the chief of police within fifteen days after the subject officer receives notice of the penalty imposed, and the Commissioner shall notify the complainant forthwith.

Extension of time

(2) Where a notice of appeal is filed after the time set out in subsection (1), the Commissioner shall assign, in accordance with the regulations, the matter to a member of the panel appointed on a recommendation made under subsection 4 (2) who may, if satisfied that there are reasonable grounds for doing so, extend the time for appealing and give such directions as he considers proper consequent upon the extension.

Commissioner may investigate

18.—(1) Notwithstanding any other provision of this Act, the Commissioner may investigate the allegations in the complaint,

(a) at any time after he receives the first interim report under subsection 11 (2) or the thirty-day period mentioned therein has expired;

(b) upon the request of the chief of police; or

(c) where he has reasonable grounds to believe that there has been undue delay or other exceptional circumstances in the conduct of an investigation under section 11.

Review of decision

R.S.O. 1980, c. 224

(2) A decision to take action under clause (1) (c) shall be deemed to be made in the exercise of a statutory power within the meaning of the *Judicial Review Procedure Act*.

Notice to chief of police

(3) The Commissioner shall forthwith notify the chief of police in writing of his intention to conduct an investigation under clause (1) (a) or (c) and shall give his reasons therefor in writing.

Idem

(4) Where the Commissioner conducts an investigation under subsection (1), he shall forward to the complainant, the subject officer, the person in charge of the Bureau and the chief of police an interim report in the prescribed form providing a summary of the investigation to date, not later than thirty days after he has given notification of his intention to conduct an investigation, and shall forward further interim reports to the same persons on a monthly basis during the course of the investigation, and upon the completion of his investigation he shall prepare a final investigation report and forward a copy thereof to the same persons.

Notice of action taken

(5) The chief of police, upon receipt of a final investigation report under subsection (4), shall review the report, together with any final investigation report prepared under subsection 11 (4), and shall make a decision in accordance with section 14 and shall notify all persons in accordance with subsection 14 (6).

Delegation

(6) The Commissioner may designate any person appointed under subsection 3 (3) to exercise any of his powers and perform any of his duties under this Act, and the person so designated has the powers and the duties set out in the designation, and where any power is conditional upon the opinion of the Commissioner, the requisite opinion shall be that of the designated person.

Request for review

19.—(1) Where a complainant is dissatisfied with the decision made on a disciplinary proceeding arising out of his complaint that is not a decision of a board of inquiry or with action taken by the chief of police under clause 14 (1) (d) or with a decision of the chief of police that no action is warranted, he may within thirty days of receipt of notification under subsection 14 (6) or 15 (2) request the Commissioner to review the matter.

Extension of time

(2) Notwithstanding subsection (1), where the Commissioner is satisfied that there are reasonable grounds for granting an extension the Commissioner may extend the time for requesting a review.

Hearing may be ordered

(3) Where the Commissioner receives a request under subsection (1), he shall review the matter and may, after such review, order a hearing by a board of inquiry if he believes that, in the public interest, such a hearing is required or he may decide to take no further action.

Notice

(4) The Commissioner shall give forthwith written notice to the chief of police, the complainant and the subject officer of his decision under subsection (3) and, where his decision is to take no further action, shall give his reasons therefor.

Where appeal under s. 16

(5) Where a subject officer has appealed under section 16 a hearing ordered under subsection (3) shall be heard together with that appeal.

Powers on investigation or review

20.—(1) For the purposes of an investigation under section 18 or a review under section 19, the Commissioner may, where he has reasonable grounds to believe that it is necessary to do so in furtherance of the investigation or review, after informing the chief of police, enter a police station and examine therein books, papers, documents and things related to the complaint.

Powers on inquiry

R.S.O. 1980, c. 411

(2) For the purposes of an investigation or review, the Commissioner has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such investigation or review as if it were an inquiry under that Act.

Appointment of person to make investigation or review

(3) The Commissioner may, in writing, appoint a person to make any investigation or review he is authorized to make and the person so appointed has all the powers and duties of the Commissioner relating to the investigation and the review.

Identification

(4) The Commissioner shall issue a certificate of appointment to any person appointed to make an investigation or review under subsection (3), which certificate shall contain a photograph of the person appointed, and the person appointed, while exercising any powers or performing any duties in

respect of the investigation or review, shall produce the certificate of appointment upon request.

Report

(5) The person appointed to make an investigation or review shall report the results of his investigation or review to the Commissioner.

Obstruction

(6) No person shall obstruct the Commissioner or a person appointed by him to make an investigation or review or withhold from him or conceal or destroy any books, papers, documents or things related to the investigation or review.

Search warrant

(7) Where a justice of the peace is satisfied upon an *ex parte* application by the Commissioner or by a person appointed by him under subsection (3) that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, papers, documents or things relating to an investigation or review, the justice of the peace may issue an order authorizing the person making the application, together with such persons as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, papers, documents or things and to examine them, but every such entry and search shall be made between 6 a.m. and 9 p.m., standard time, unless the justice of the peace, by the order, otherwise authorizes.

Removal of books, etc.

(8) The Commissioner may, upon giving a receipt therefor, remove any books, papers, documents or things examined under subsection (1) or (7) relating to the investigation or review and shall with reasonable dispatch cause to be made copies of such books, papers or documents and return them promptly thereafter to the person from whom they were removed.

Admissibility of copies

(9) Any copy made as provided in subsection (8) and certified to be a true copy by the Commissioner is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, paper or document and its contents.

Appointment of experts

(10) The Commissioner may appoint an expert to examine books, papers, documents or things examined under subsection (1) or (7).

Report

21.—(1) Where, after making a review, the Commissioner is of the opinion that a police practice or procedure should be altered, he shall report his opinion and recommendations to the Metropolitan Board of Commissioners of Police, the chief of police and the Metropolitan Toronto Police Association.

Idem

(2) Where, as a result of any matter dealt with under this Act, the Commissioner is of the opinion that a practice or procedure or law affecting the resolution or prevention of public complaints should be altered or implemented, he shall report his opinion and recommendations to the Metropolitan Board of Commissioners of Police, the chief of police and the Metropolitan Toronto Police Association.

Idem

(3) Within ninety days of receiving a report under subsection (1) or (2), the Metropolitan Board of Commissioners of Police shall forward such report along with their comments and any comments submitted to them by the chief of police or the Metropolitan Toronto Police Association, to the Attorney General, the Solicitor General and the Commissioner.

Where board of inquiry to be constituted

22.—(1) Where,

(a) the chief of police has ordered that a matter be heard by a board of inquiry;

(b) a police officer has appealed under section 16; or

(c) the Commissioner has, under subsection 19 (3), ordered a hearing,

a board of inquiry shall be constituted in accordance with this section.

Assignment to board of inquiry

(2) Where, in the opinion of the Commissioner, the hearing involves misconduct by a subject officer that is of a minor nature, he shall assign, in accordance with the regulations, a member of the panel who was appointed on a recommendation made under subsection 4 (2) to sit alone to conduct the hearing.

Idem

(3) Where, in the opinion of the Commissioner, the hearing involves misconduct by a subject officer that is of a serious nature, he shall assign, in accordance with the regulations, three members of the panel to conduct the hearing.

Constitution of board
R.S.O. 1980, c. 381

(4) Where, following a disciplinary hearing under the *Police Act* a board of inquiry is to be constituted, the board shall be constituted in accordance with subsection (3).

Who shall be on board

(5) The chairman of a board of inquiry constituted under subsection (3) or (4) shall be a person appointed to the panel on a recommendation made under subsection 4 (2), one member shall be a person appointed to the panel on a recommendation made under subsection 4 (3) and one member shall be

a person appointed to the panel on a recommendation made under subsection 4 (4).

Statement of alleged misconduct

(6) The chief of police, where he has ordered a hearing, and the Commissioner, where he has ordered a hearing, shall provide the parties with a concise statement of the allegations of misconduct to be heard by the board.

Record

(7) Where, following a hearing referred to in subsection 15 (1), a board of inquiry has been constituted, the chief of police shall forward the record of that hearing, including the transcript, all documents, evidence and exhibits considered at that hearing, to the board.

Costs of record

(8) Where the Commissioner has ordered the hearing he shall pay the costs of preparing the record.

When hearing *de novo* and when on record

23.—(1) The hearing before the board of inquiry shall be *de novo*, except where the chief of police has prepared a record under subsection 22 (7), in which case the hearing shall be on the record but the board may, in special circumstances, hear such evidence as the board considers advisable.

Parties

(2) The parties to a hearing shall include,

(a) the chief of police, in respect of appeals instituted by the subject officer under section 16; and

(b) the Attorney General, except where an appeal has been instituted by the subject officer under section 16.

Adding parties

(3) A party may be added by the board at any stage of the hearing upon such terms as the board considers proper.

Attorney General to have carriage

(4) The Attorney General, where he is a party to the hearing, has carriage of the matter.

Notice of hearing

(5) The board shall appoint a time for a hearing and give written notice thereof to the parties.

Opportunity to examine evidence

(6) The subject officer and the complainant shall be afforded an opportunity to examine before the hearing any physical or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Board not to communicate with party

(7) The board conducting a hearing shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representa-

tive except upon notice to and opportunity for all parties to participate, but the board may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

Oral evidence

(8) The oral evidence given at the hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Adjournment for view

(9) The board may, where it appears to be in the interests of justice, direct that the board and the parties and their counsel or representatives shall have a view of any place or thing, and may adjourn the hearing for that purpose.

Only members at hearing to participate in decision

(10) No member of the board shall participate in a decision following the hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision shall be given unless all members so present participate in the decision.

Decision

(11) A decision of a member of a board of inquiry sitting alone and a decision of a majority of the members of a board comprising three members is a decision of the board.

Release of documents

(12) Documents and things put in evidence at the hearing shall, upon the request of the person who produced them, be released to him within a reasonable time after the matter in issue has been finally determined.

Police officer not required to give evidence

R.S.O. 1980, c. 484

(13) Notwithstanding section 12 of the *Statutory Powers Procedure Act*, the subject officer shall not be required to give evidence at the hearing nor shall any statement or answer required to be given by him in respect of the complaint made against him be admitted in evidence at the hearing, except with his consent.

Statement or admission not admissible in evidence

(14) Where the person in charge of the Bureau or the Commissioner attempts to resolve a complaint informally and the complaint is not so resolved, any statement or admission made during such attempt by the subject officer or by the complainant shall not be admitted in evidence at the hearing, except with the consent of the subject officer or the complainant, as the case may be.

Proof of misconduct

(15) No finding of misconduct by the subject officer shall be made unless the misconduct is proved beyond a reasonable doubt.

Imposition of penalty

(16) Where a board constituted under subsection 22 (2) finds the subject officer guilty of misconduct, it may,

(a) direct that days off not exceeding five days be forfeited;

(b) direct that pay not exceeding three days pay be forfeited; or

(c) reprimand the police officer.

Idem

(17) Where a board constituted under subsection 22 (3) finds the subject officer guilty of misconduct, it may,

(a) dismiss the police officer from the Metropolitan Police Force, whereupon the officer is thereby dismissed;

(b) direct that the police officer resign from the Metropolitan Police Force and, in default of resigning within seven days, be summarily dismissed;

(c) reduce the police officer in rank or gradation of rank and in pay in accordance with the rank to which he is reduced;

(d) direct that days off not exceeding twenty days be forfeited;

(e) direct that pay not exceeding five days pay be forfeited; or

(f) reprimand the police officer, which reprimand may be in lieu of or in addition to any other penalty imposed.

Notice of decision

(18) The board shall give forthwith written notice of its decision and the reasons therefor to the chief of police, the complainant, the subject officer, the Commissioner, the Solicitor General and the Attorney General.

No reference to hearing

(19) No reference to a hearing conducted by the board shall be made in the personal record of the subject officer unless the board has made a finding of misconduct.

Costs may be paid

(20) The Metropolitan Board of Commissioners of Police may, in such cases and to such extent as it thinks fit, pay any legal costs incurred by a subject officer in respect of a hearing conducted by a board and an appeal under section 24.

Appeal

24.—(1) A party to a hearing by a board may appeal within thirty days of the decision of the board to the Divisional Court.

Solicitor General and Attorney General entitled to be heard

(2) The Solicitor General, and the Attorney General where he is not entitled to appeal under subsection (1), are entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.

What may be appealed

(3) An appeal under this section may be made on a question that is not a question of fact alone or from a penalty imposed under subsection 23 (17), or on both the question and the penalty.

How notice, etc., may be served

25. Any notice, report or other material required to be given, furnished, forwarded or otherwise served under this Act is sufficiently served if delivered personally or sent by prepaid first class mail addressed to the person on whom service is required to be made at his last known or usual place of abode.

Matters confidential

26.—(1) Every person engaged in the administration of this Act and the regulations, including a member of the Metropolitan Police Force, shall preserve secrecy in respect of all matters that come to his knowledge in the course of his duties and shall not communicate any such matter to any other person except,

R.S.O. 1980, c. 381

(a) as may be required in connection with the administration of this Act and the regulations or the *Police Act* and the regulations thereunder;

(b) as may be required for the due enforcement of the law;

(c) to his counsel; or

(d) with the consent of the person to whom the matter relates.

Testimony

(2) No person to whom subsection (1) applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, except at a hearing under this Act or in a disciplinary proceeding under the *Police Act* and the regulations thereunder.

What is inadmissible in evidence

(3) No record, report, writing or document arising out of a complaint is admissible or may be used in evidence in any civil suit or proceeding, except at a hearing under this Act or in a

disciplinary proceeding under the *Police Act* and the regulations thereunder.

Idem

(4) No oral statement, answer or admission referred to in subsections 23 (13) and (14) is admissible or may be used in evidence in any civil suit or proceeding, except at a hearing under this Act or in a disciplinary proceeding under the *Police Act* and the regulations thereunder.

R.S.O. 1980, c. 381

Application of 1984, c. 11, s. 146

27. Section 146 of the *Courts of Justice Act, 1984* (photography at court hearing) applies with necessary modifications to a board hearing.

R.S.O. 1980, c. 325 does not apply

28. The *Ombudsman Act* does not apply to anything done under this Act.

Agreement for contributions

29. The Attorney General, with the approval of the Lieutenant Governor in Council, and The Municipality of Metropolitan Toronto may enter into an agreement to provide for the payment by the municipality to the Treasurer of Ontario on such terms and conditions as may be agreed upon of contributions in respect of the moneys required for the purposes of this Act.

Offence

30. Any person who contravenes subsection 20 (6), subsection 26 (1) or section 27 is guilty of an offence and on conviction is liable to a fine of not more than $2,000.

Regulations

31. The Lieutenant Governor in Council may make regulations,

(a) respecting the reporting and publication of decisions of boards of inquiry;

(b) assigning duties to the Commissioner;

(c) establishing a system that provides for the assignment of panel members on a rotational basis;

(d) prescribing forms and providing for their use; and

(e) prescribing any matter that by this Act is required to be or is referred to as prescribed.

Advisory committee

32.—(1) There shall be a committee composed of,

(a) the Deputy Attorney General;

(b) the Deputy Solicitor General;

(c) the chairman of the Ontario Police Commission;

(d) the Commissioner;

(e) the Assistant Deputy Attorney General-Criminal Law; and

(f) such other persons as may be jointly appointed by the Attorney General and the Solicitor General.

Duties

(2) It is the duty of the committee,

(a) to maintain under review the practice and procedures under this Act;

(b) to receive and consider matters brought to the attention of the committee by any person having an interest in the operation of the system for handling complaints under this Act;

(c) to make such recommendations as the committee considers appropriate for the improvement of the system for handling complaints; and

(d) to perform such other duties or functions as the committee may be requested to perform by the Attorney General or the Solicitor General.

Recommendations

(3) Any recommendations made under clause (2) (c) shall be forwarded by the committee to both the Attorney General and the Solicitor General.

Recommendation of Attorney General

33. On or before the day that is three years after the day this Act comes into force, the Attorney General shall, after having reviewed the operation of the panel, the Board and the advisory committee referred to in sections 4 and 32 respectively, recommend to the Lieutenant Governor in Council whether those bodies should continue in existence or be terminated.

Repeal

34.—(1) The *Metropolitan Police Force Complaints Project Act, 1981*, being chapter 43, is repealed.

Proceedings continued under 1981, c. 43

(2) Notwithstanding subsection (1), the *Metropolitan Police Force Complaints Project Act, 1981* shall continue in force and apply to a complaint that is made before the day this Act comes into force, for the purpose of continuing the proceedings in respect of that complaint, but the proceedings at any Board hearing commenced after the day this Act comes into force shall be in accordance with the provisions of this Act.

35. This Act comes into force on the 21st day of December, 1984. Commencement

36. The short title of this Act is the *Metropolitan Toronto Police Force Complaints Act, 1984*. Short title